POLICIES AND PRACTICES IN PUBLIC PERSONNEL ADMINISTRATION

Report of the Committee on
Employee Relations in the Public Service
of the
Civil Service Assembly of the United States and Canada

EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

Committee on

EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

of the

CIVIL SERVICE ASSEMBLY

of the United States and Canada

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EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

A Report Submitted to the

CIVIL SERVICE ASSEMBLY

By the Committee on

Employee Relations in the Public Service

GORDON R. CLAPP, Chairman

CIVIL SERVICE ASSEMBLY

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Foreword

THE management of governmental affairs has become increasingly important as the activities of governments have grown in magnitude and broadened in scope, particularly during the last quarter of a century. This has led inevitably to an intensification of interest in problems relating to personnel administration—a function that is an essential and integral part of over-all management. The rapid extension and improvement of merit systems in national, state, and local governments and the renewed interest of many important groups in public personnel problems have marked this development during the last few years. All interested groups, including public personnel workers themselves, have long felt the serious need for a searching review and appraisal of existing personnel policies and practices and the formulation of proposals for the more complete and satisfactory performance of personnel activities. Plans for meeting this need were approved by the Executive Council of the Civil Service Assembly in 1937. The present report is one of a series which, when completed, will bring together for the first time a set of authoritative and forward-looking volumes dealing with the major phases of public personnel administration.

More than sixty outstanding personnel officials, general administrators, technical and research workers, educators, and representatives of civic, professional, and employee groups actively participated in the preliminary planning of this huge undertaking. It was agreed that the final findings and reports resulting from this comprehensive effort would be based upon special field studies of public personnel policies and practices, which would be supplemented by information obtained from existing studies and reports dealing with personnel problems and by the ideas and suggestions of those who were in a position to make helpful contributions because of their training or experience. It was further agreed that the reports should not be the work

of one person, or of a small group of persons, professing omniscience in the field. It was felt that the final reports should be the product of group effort and group thinking, which could be realized through the appointment of a series of committees whose members would give their time, energies, and ideas to make the undertaking successful.

To collect and appraise facts regarding present public personnel policies and practices, a specially recruited staff conducted field studies covering twenty-two different public personnel agencies selected because of their differences in size, location, and problems. In each jurisdiction one or more members of this field staff conducted intensive interviews with personnel administrators, technicians, departmental administrators and supervisors, political leaders, and representatives of organized employee associations. Approximately four hundred persons were interviewed during the course of the field studies. Complete notes were made of these interviews. Information and suggestions obtained in this way were supplemented by a careful study and review of other materials, such as: appropriate legislation; annual and special reports of the personnel agencies; special studies and memoranda regarding the work of the personnel agencies which had been prepared by outside organizations and disinterested persons; personnel tests, forms, records, statistics, and methods; and finally, actual observations of the agencies' operations. On many occasions, significant and helpful documentary material not ordinarily available to a researcher was placed at the disposal of the field staff.

As a result of this work, a detailed case history was prepared for each agency covered by the survey. Each case history included statements of fact regarding the personnel policies and practices of the agency; ideas and suggestions obtained from those interviewed, from reports, and from other sources; a critical appraisal of the policies and practices of the agency as they were actually working; and suggestions for changes and improvements which originated with those interviewed or members of the survey staff. The information and suggestions included in each case history were gathered and organized according to a

prearranged plan that made it possible to classify the material into broad categories corresponding to certain major aspects of public personnel administration.

The case histories and all other available materials were then placed in the hands of a number of committees for use as basic information in the preparation of final reports. Each committee was given the task of preparing a report dealing with a specified functional subject in the field of public personnel administration. In addition to the case histories, the committees were given access to supplementary descriptive and interpretative material regarding many agencies not covered by the field survey; special reports and theses relating to the work of personnel agencies and to technical and administrative problems in personnel administration; selected bibliographies; and other materials brought together by the Assembly's Headquarters Office in connection with its regular activities as a clearing house in the field of public personnel administration. Committee chairmen and members were encouraged to augment this material by consulting with persons and groups who were in a position to make substantial contributions of ideas and facts and by conducting special investigations and researches. Through the occasional issuance of memoranda and special notes, all committee members were kept currently informed of the progress being made and the problems being faced by participants in the undertaking.

Following a procedure approved by the Assembly's Executive Council regarding each committee, one person was appointed by the President of the Assembly to serve as chairman of an advisory committee to prepare an appropriate report on the particular subject or phase of public personnel administration assigned to it. The members of each committee were chosen because of their interest in, and knowledge of, the matter falling within the committee's general jurisdiction, and because of the diverse viewpoints which they could bring to the committee's work. More than three hundred persons have served on the several committees. About one-half of them are persons actively engaged in public personnel administration. The other half are general administrators, educators, industrial personnel workers,

and leading members or representatives of civic and professional groups, governmental research associations, and employee organizations.

It has been the responsibility of each chairman to initiate and coordinate the activities of his committee. The work methods of the several chairmen have naturally differed. Some have used their committees largely as sounding boards on various problems or proposals referred to them and have asked committee members to review outlines and manuscripts and to offer their comments, criticisms, and suggestions for the purpose of injecting the influence of their composite views and experiences into the final reports. Others have asked individual committee members to assume the task of bringing together all necessary material regarding a particular segment of the committee's assignment and to prepare a corresponding section of the final report. It has been the chairman's responsibility, without obtaining formal action by the committee, to reconcile differences of approach and to mold his own ideas and materials and those submitted by his committee members into a final integrated report. This procedure has made it possible for each report to represent the collective contributions of outstanding thinkers and doers in public personnel administration, and of persons engaged in other fields who have the vision, imagination, and freedom from professional introversion to propound the broad principles and objectives that should determine the role of personnel administration in the over-all scheme of public affairs.

At the very inception of the undertaking, it was stressed that each report should represent a synthesis of the most effective and desirable policies and practices on a particular phase of public personnel administration. It was contemplated that each report would be more than a mere tallying of existing practices and malpractices, and that it would thus be qualitative rather than quantitative. It was also agreed that each report would not only carry the story of the effective steps which had been taken by personnel agencies to reach certain objectives, but would go further and project beyond present policies and practices to more desirable or acceptable ones.

Any statement regarding the undertaking would be incomplete without acknowledgment of the contributions which have been received from a number of individuals and organizations. Members of the Assembly's Headquarters Office staff, past and present, have made substantial contributions and rendered effective help throughout the various phases of the project. The broad general outline of the study as a whole was first conceived by G. Lyle Belsley, then Director of the Headquarters Office. He, together with Henry F. Hubbard and Maxwell A. DeVoe, laid the foundation for the study and devised the procedures for its execution. Mr. DeVoe was responsible for the immediate supervision of the special field staff originally engaged in gathering information contained in the case studies and for coordinating the efforts of the several committees participating in the preparation of final reports. John Steven and Doris Haney Jones assisted ably in the gathering of the material contained in the various case studies. With the departure of Mr. DeVoe from the staff, the work of coordinating committee activities and the editorial work involved in preparing the various reports for publication have been the responsibility of Jeremiah Donovan.

Sincere appreciation is hereby tendered to the many public-spirited persons who, without compensation, took an active and helpful part in planning this undertaking and bringing it to its present stage of completion. Great help and much useful information have been made available to the Assembly in connection with this effort by the associations of public agencies and public officials located in the same building as the Assembly's Headquarters Office at 1313 East 60th Street, Chicago, as well as by various other organizations throughout the country. Acknowledgment is made for the assistance rendered by Public Administration Service throughout the process of printing and publishing this report. The Assembly is grateful to the several copyright holders who have permitted the quotations of copyrighted materials in the report. Finally, the entire undertaking was made possible through the finances generously provided by the Spelman Fund of New York. Without this assistance, it would be impossible for the undertaking to achieve the intended goals.

Committee chairmen and members have been able to take only a limited amount of time away from their regular activities for the purpose of carrying forward the undertaking. This fact, together with unforeseeable difficulties encountered by various committees, has made it impossible for all reports of the series to be finished simultaneously or in schematic order. It has therefore been decided to publish the reports, for the most part, in the order of their completion.

This report, *Employee Relations in the Public Service,* like all others in the series, is a document which a committee has prepared and submitted to the Civil Service Assembly. The information and recommendations presented in its pages represent the collective thinking of the chairman and his committee. It is to be stressed, however, that the report was not prepared with a view toward official approval or formal adoption by the Civil Service Assembly, its Executive Council, or its Headquarters staff, and no action of this nature is contemplated. The report is, however, as forward-looking and authoritative as an able chairman and a group of competent associates have been able to make it.

JAMES M. MITCHELL, *Director*
Civil Service Assembly

Preface

THE relationship between employees and management is a subject fraught with many controversial issues; practices and policies vary greatly; points of view and formulas of reasoning stemming both from legal questions and from questions of administrative judgment are frequently in sharp conflict. The controversial nature of this subject as it relates to the public service does not necessarily arise from the fact that the public service is involved; many of the same issues are the subject of prolonged debate as they arise in the problems of employer-employee relationships in private enterprise. The fact, however, that theories with respect to the power of government must be considered in any study of employee-employer relations in the public service adds some new opportunities for controversy.

When the Civil Service Assembly established a Committee on Employee Relations in the Public Service in the spring of 1939, the first task of the Committee was to devise a report procedure that would most effectively serve the purposes of the Assembly in its program of study and public discussion of personnel administration. At least two different approaches suggested themselves: the Committee might have attempted to formulate out of its own experience and convictions a model program or set of policies governing employee-employer relations in the public service. A Committee report on this basis would have had for its purpose the stimulation of adoption of desirable practices and policies throughout the public service. This procedure would have required very close collaboration and conference discussions by the Committee as a whole if its purposes were to be achieved in a wise and workable way. Because working methods available did not make it possible for the Committee to meet frequently to hammer out a model program that would stand

the test of feasibility and specific applicability to different situations, this course and purpose were discarded at the outset. The report here presented, therefore, does not presume to propose a model program or policy in the field of employee relations.

The other approach that was considered—and adopted—was to assemble judgments and points of view of leading students and practitioners, from their writings and expressions to identify the major issues pertinent to the problem and, at the same time, to present the pros and cons available in the literature respecting these issues.

It was understood that such a course could be expected to leave many questions unresolved; it was also understood that this method could not take full advantage of the original thinking available in the Committee itself. Against the disadvantages of this method there appeared certain strong advantages, of which two seemed outstanding: in the first place, it was believed that it would help to clarify a controversial subject by identifying the major issues in order that the framework of debate might define the problems yet to be solved by experience and application; in the second place, it seemed important that there be available to students and practitioners of public administration a source book of illuminating opinions, judgments, and experiences which may be suggestive for future study and resolution of the problems in the field.

Throughout the report attention is called to open questions which will await decision through evaluation of the experience of progressive public personnel jurisdictions and employee groups in subsequent research activities. Fortunately, it has not been necessary to make detailed suggestions to identify a sound course for future inquiry. The Social Science Research Council has lately published a research outline covering this specific field. The outline, entitled "Research in Employer-Employee Relations in the Public Service," had the benefit of critical review by a group of administrators, students of administration and labor relations, and union presidents. It was drafted by John J. Corson, whose membership on the Committee on Employee Relations has assured coordination of the two publications. The

outline furnishes a wealth of suggestive research topics by which students may contribute to the solution of the numerous problems upon which leading thinkers now differ. Widespread and continuing improvement of our employee relations will depend to no small degree on the systematic evaluation of the practices of employee relations in the American public service.

The purpose of the report and the method used in developing it were also affected by the composition of the Committee itself; a body of men more representative of the distinct points of view which characterize the thinking in this field could hardly be assembled. The Committee membership includes both management and employee thinking as well as representative experience from local, state, and federal jurisdictions. Such a group seemed ideally suited to defining the important issues in employee relations and assuring that all significant arguments were brought to bear on these issues.

In presenting this report, the Chairman of the Committee wants to point specifically to the contribution of the Committee membership without, at the same time, committing them too firmly to responsibility for the result. The Committee's contribution has consisted primarily of collective suggestion as to the scope of the report, detailed suggestion as to the topical outline of material to be covered, and of repeated criticism of the text of the report through review of the various stages of textual revision. In addition, many members of the Committee have enriched the content by supplying many illustrations from public personnel experience to illuminate the discussion of specific issues. The membership of the Committee is too large for the specific and important contributions of each one to be listed; in all cases the patience and frankness (in agreement and in disagreement) which have characterized the participation testify to the pertinence and interest of the subject matter. It is not to be presumed that all members of the Committee will be in complete agreement with the conclusions and summaries expressed through the text of the report or in its final chapter especially. The report can be advanced, however, as a document that has the general blessing of a substantial majority of the Committee.

The approach followed in the development of the report has required a tremendous amount of reading and selection in the literature and recorded experience of public employee relations. Special credit and acknowledgment for this burdensome task is due to Henry C. Hart, a member of the personnel research staff of the Tennessee Valley Authority. Mr. Hart drafted the detailed outline of the report on the basis of exhaustive reading, prepared the preliminary draft, and incorporated into it the comments and suggestions of the Committee. This has been a task occupying a great deal of time over a period of many months; without Mr. Hart's assistance the Chairman of the Committee could not have undertaken the assignment. Acknowledgment is also due to Arthur S. Jandrey, Director of Personnel, and E. B. Shultz, Chief of the Personnel Relations Division of the Authority. They joined with the Chairman in giving general direction to the method and content of the report and in detailed editing of the first and final drafts. These colleagues have, in effect, with the Chairman, constituted a drafting committee for the Committee as a whole. Particularly is credit due to Mr. Jandrey for the development of the chapter on the role of the personnel agency in employee relations, a chapter which perforce required treatment differing from the remainder because of the paucity of literature on the subject.

It would be redundant to give specific credit here to the authors who have been made to take part in a running debate throughout the book. Footnotes indicate their contributions. Special appreciation is due, however, to the Civil Service Assembly of the United States and Canada. Its *Proceedings* and other publications were valuable sources of information; particularly useful was its field survey of employee organization in twenty-two civil service jurisdictions. The staff of the Assembly, especially G. Lyle Belsley and, until his resignation, Maxwell DeVoe, were continually on the alert for cases and studies which might strengthen the text. Mr. Belsley reviewed the entire first draft and made invaluable criticisms of it. The entire load of preparing the manuscript for publication was borne by the Civil Service Assembly.

With all these acknowledgments, the responsibility for the adequacy of the report, the final choice of issues dealt with, and the validity of whatever conclusions are drawn or are implied rests squarely upon the Chairman of the Committee. It is a responsibility which has carried with it the satisfaction of widened contacts with students and active participants in a fascinating area of public administration.

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Chapter I

Employee Relations and the Public Administrator

THE curious phenomenon of individual differences in human personality and ability is at the root of most of our problems of social organization and relationships. The relationships between employees, in the rank and file, and employers, the supervisory staff, in or out of the public service, are no exception. The history of labor relations in or out of the public service is characterized by growth in discovery and recognition of the fact that people at work prefer to behave like human beings. The more special history of labor relations in the public service is featured by the added phenomenon that public employment which transforms a part of the individual citizen into a civil servant for a part of his twenty-four-hour day still finds him behaving very much like a human being.

The special considerations and conditions which distinguish public from private employment in American democracy have too frequently prompted the belief that once the door of the public service closed quietly behind the government employee on his way in, he somehow shed his personality and became a colorless bit of protoplasm in the life and energies of the great body of government. The concept of service to the public has too frequently carried with it a confusing corollary: that public servants are a little less than human.

The history of labor relations in industry and in government in its simplest terms is the story of efforts to establish recognition and understanding of the fact that individuals still strive to be individuals even though they perform services for the pay of another; and in the course of striving to retain individuality the grievances, complaints, and conflicts between employee and employer assume proportions of a major social problem with eco-

nomic, philosophical, and very practical implications. These problems have emerged primarily in the form of organized presentations to employers by employees. As the problem has grown in volume and sharpness, employees have increased their efforts to organize. Any review of major issues of employee relations in the public service seems destined, therefore, to concentrate upon organized relationships between employees and their employer.

This report makes no attempt to trace the history of employee relations in the public service. That has been done elsewhere and ably. It attempts instead to identify the facts, problems, and major issues which stand out in prevailing thought and discussion, to present the pros and cons of these issues by those who have observed and studied them, and from such running debate attempts to point to conclusions where possible or unresolved questions where necessary.

The subject of employee relations in the public service has in recent years moved more and more rapidly into the professional bailiwick of public administrators and more specifically into the field of the personnel administrator as a subject about which he must have a special knowledge.

A most significant index of this trend is noted in President Roosevelt's executive orders of June 1938. One of the orders reads in part:[1]

> Effective not later than February 1, 1939, the heads of the Executive departments and the heads of such independent establishments and agencies subject to the civil service laws and rules as the President shall designate, shall establish in their respective departments or establishments a division of personnel supervision and management, at the head of which shall be appointed a director of personnel. . . . Subject to the approval of the head of such department or establishment and of the Civil Service Commission he shall establish means for the hearing of grievances of employees and present appropriate recommendations for the settlement thereof to the head of his department or establishment.

The mere issuance of these directions is recognition of a new emphasis upon personnel administration in the federal service.

[1] Executive Order No. 7916, June 24, 1938, Sec. 6.

It suggests that the study of why government employees behave like human beings is to be the special problem of personnel agencies.

This clarification of emphasis appears to be extending to all governmental levels, although they have not all reached the same stage. The Bureau of Public Personnel Administration reported as early as 1929 that[2]

> few public personnel agencies that make any serious attempt to function are now satisfied merely to do recruiting work. They want also to '. . . have a part in transactions affecting employees in the service, such as determining hours of work, checking attendance, handling annual, sick and special leaves of absence, developing, installing and administering service rating plans, handling transfers, and making salary adjustments within the limits set by the compensation plan.

The assumption of new fields of responsibility in which employees are directly concerned has perforce led the public personnel administrator to consider the relations of the governmental unit with its employees as one of his major spheres of concern. At least four developments in the field of personnel administration bear witness to the tendency: the modification of many accepted personnel procedures with a view to improving employee relationships, the promulgation of explicit employee relationship policies, the designation by personnel directors of specialized staffs through whom these policies are being administered, and the growing interest of employees in self-organization as a medium for obtaining participation in personnel matters which involve their interests.

No government personnel problem, however, is less susceptible to accurate survey and evaluation than is the relation of management to employees. Variation of practice and objectives is the rule. Consider how much less common ground can be found among governmental agencies at various levels than members of the research staff of the President's Committee on Administrative Management discovered in the national government alone:[3]

[2] "Some Trends in Public Personnel Administration," *Public Personnel Studies*, November 1929, p. 155.

[3] Floyd W. Reeves and Paul T. David, *Personnel Administration in the Federal Service* (Washington: Government Printing Office, 1937), p. 53.

The various parts of the Federal service differ so much in respect to almost all phases of personnel administration that it is extremely difficult to generalize as to existing conditions. The variation is especially marked in the relations between employees and their official superiors and in the maintenance of morale among rank-and-file employees.

This diversity of scope and progress makes it difficult to arrive at a precise definition of the field of employee relationship policies. But there is an additional complicating factor. The specialized field of employee relationships is more accurately characterized as an emphasis in personnel administration than as a series of related personnel activities. In this sense it can be distinguished, for example, from the fields of recruitment or service ratings. More than any other personnel function, perhaps, employee relationship policies are *ways of doing* the recognized tasks of personnel management, of providing for wider participation in those tasks. Personnel administration is itself no more than an aspect of management which experience has shown to be appropriate for functional specialization. The guidance and control of employee relations is similarly a segment of over-all management and of personnel administration. Thus, as Ordway Tead has pointed out, organization structure is one of the most significant determinants of the quality of employee relations.[4] An early example of the significance of employee relations as an aspect of a recognized personnel function was provided by the classification survey of the federal service in 1919 and 1920. Thorough consultation with employees during the survey resulted in improved morale, although the investigation and report might conceivably have caused widespread suspicion among federal workers.[5]

It is true that certain activities of personnel administration have become particularly associated with employee relationships; discipline, removals, grievance procedures, and perhaps the setting of levels of pay are examples. This may be partly because employees are most directly concerned about matters of

[4] *Human Nature and Management* (New York: McGraw-Hill, 1933), p. 276.
[5] Congressional Joint Commission on Reclassification of Salaries, H. Doc. 686, 66th Cong., 2d sess. (1920), p. 151.

tenure and remuneration. The individual character of employee relationship policies is to be found, however, not in the subject matter of the policies, but in their approach to a great variety of personnel problems.

The assumption which underlies this approach is that, as persons, employees react to the complex of conditions under which they are employed, and their reaction has great bearing on their contribution to the enterprise. In this sense, the approach of the government administrator to his relations with his staff is not essentially different from that of the private employer. The following sentence by H. C. Metcalf indicates the basic approach: "In our industrial relations greater emphasis is now being placed upon the individual as an organic unit, as a human personality."[6]

Management, either public or private, justifiably devotes attention to employee relations because the quality of those relations determines the effectiveness of the staff above the minimum of mere exertion. "Morale is that attitude which results from the mobilizing of energy, interest, and initiative in the enthusiastic and effective pursuit of a group's purposes," Ordway Tead has written, and further, "It is only as he is interested in his relation to the organization that the morale factor begins to develop."[7] Experimental support of this general assertion is found in the outstanding study of the factors determining industrial efficiency conducted from 1927 to 1935 at the Hawthorne Works of the Western Electric Company. In their general summary of the four major stages of the Hawthorne inquiries, Roethlisberger and Dickson point out that[8]

an industrial concern is continually confronted . . . with two sets of major problems: (1) problems of external balance, and (2) problems of internal equilibrium. The problems of external balance are generally assumed to be economic; that is, problems of competition,

[6] "An Evolving National Labor Policy," in *Collective Bargaining for Today and Tomorrow*, Henry C. Metcalf, ed. (New York: Harper and Bros., 1937), p. 1.

[7] *Human Nature and Management*, p. 173.

[8] F. J. Roethlisberger and W. J. Dickson, *Management and the Worker* (Cambridge: Harvard University Press, 1939), p. 552. The Assistant Works Manager of the Hawthorne plant reached a corresponding conclusion in an earlier summary: G. A. Pennock, "Industrial Research at Hawthorne," *Personnel Journal*, February 1930, p. 311.

adjusting the organization to meet changing price levels, etc. The problems of internal equilibrium are chiefly concerned with the maintenance of a kind of social organization in which individuals and groups through working together can satisfy their own desires. . . . Producing an article at a profit and maintaining good employee relations are frequently regarded as antithetical propositions. The results of the studies which have been reported indicated, however, that these two sets of problems are interrelated and interdependent.

The relative significance of the employee's attitude to his work situation would presumably be multiplied and not reduced when (as is often the case in the public service) his position demands not primarily manual dexterity, but imagination, perception of abstract relations, and pursuit of complex problems to their solution.

The first problem of a study in employee relationships consequently must be to establish the nature of the basic interests of the employees. The enterprise, public or private, must tap the energy which inheres in these interests or be satisfied with nominal performance.[9]

There are three possible methods of inquiry concerning employee desires and reactions. The first is the process of individual interviews combined with tests of production, such as those carried on in the experiment at the Hawthorne Works. Unfortunately, it has not been extended to public employees, to whom many theorists and public officials ascribe a unique status. But even in private industry, inquiry by this method has been limited to investigations of employee reactions as they vary within a given set of wage and basic employment conditions, thus failing to trace the most general determinants of morale.

A second method is to analyze the objectives which employees have organized to attain and the programs which have been evolved for these purposes. Such considerations will occupy the first chapter to follow. This source of information has additional relevance in that it represents in many cases the employee attitudes which the administrator actually faces, regardless of

[9] Elton Mayo, *The Human Problems of an Industrial Civilization* (New York: Macmillan, 1933), pp. 119–20.

what he may conceive to be the true direction of employee desires.

The final source of information is basically a process of trial and error. The response of employees in terms of morale to the various policies adopted by the employer for satisfaction of employee desires is assumed by this technique to suggest the nature of those desires.[10] But the measures of morale as a factor in production are crude, and reactions can seldom be tested except as they find overt expression, often only through organization of the employees. Moreover, many experiments in developing favorable relations are too recent to evaluate. The few cases which are available will be described briefly in connection with the specific issues of policy included in Chapter IV.

At this stage, no distinction has been made between employer-employee relations in government and in private enterprise. That such distinctions exist is evident from the legislative framework for policies in the two spheres. But beyond this, distinctions have been derived from the nature of government in a philosophical sense. In general, the theoretical distinctions have been based upon concepts of sovereignty and of democracy. The opposing impacts of these viewpoints upon the status of the government as an employer will constitute the principal subject of Chapter III.

Although employee relationships take on great significance to operating management as the most important source of morale, and to employees and their organizations as the index to their status in the enterprise, they remain inextricably a part of personnel administration. In spite of the breadth of participation by employees and supervisors in building these relationships, neither personnel management nor general management can escape the responsibility inherent in its unique functions. What role has it played during recent years in this emerging function of administration, broadly conceived? What indication does that experience give for the future place of personnel manage-

[10] This is the method used with apparent success by B. Seebohm Rowntree in initiating his famous experiment at a British cocoa works, *The Human Factor in Business* (New York: Longmans, Green, 3rd ed., 1938), p. xii.

ment in the government enterprise? A survey of thought on this question is given in Chapter VI.

It is hoped that this attempt to focus the thinking of outstanding students of public personnel administration on some of the important issues of employee relationships will aid those engaged in administration in this field. It is also hoped that the report will extend and accelerate the processes of creative experimentation and discussion about a phase of personnel administration which will never be perfected or, according to present signs, become static so long as the wellsprings of human conduct defy precise patterns suited to precise predictions.

Chapter II

Organized Government Employees

THE HISTORY of government employee organizations begins early in the nineteenth century. A review of that record would involve duplication of existing texts and is not undertaken here.[1] But the growth of these associations is one of the notable recent developments in the public service. The growth has been in complexity as well as in membership. There are, for example, at least eighteen unions of national scope representing government workers primarily. In 1940, 558 national organizations in the field of public administration were catalogued, most of them composed of public officials and public employees.[2] The broadest division is between professional societies on the one hand and organizations primarily interested in improved working conditions on the other. Professional associations have not ordinarily figured in employee-management relations. The distinction is useful, but not absolute, for, as Leonard D. White points out, "the professional association is not entirely disinterested in the working conditions of its members, and the unions frequently provide fertile soil for the development of [vocational] standards."[3]

Of the organizations representing public servants as employees, only those of national scope can be described in approximately accurate terms. The available sources of information[4] leave the purely local organizations of employees largely

[1] See Leonard D. White, "Public Service Employee Unions" in *Introduction to the Study of Public Administration* (New York: Macmillan, 1939), chapter 28; Sterling D. Spero, "Employer and Employee in the Public Service," in Carl J. Friedrich and others, *Problems of the American Public Service* (New York: McGraw-Hill, 1935, pp. 196–229; and William E. Mosher and J. Donald Kingsley, *Public Personnel Administration* (New York: Harper & Bros., 1936).

[2] Public Administration Clearing House, *Public Administration Organizations, A Directory* (Chicago, 1941), p. ix.

[3] *Research in Public Personnel Administration* (New York: Social Science Research Council, 1939), p. 30.

[4] Testimony of union representatives before Congressional committees, proceedings of conventions, union journals and pamphlets, articles by union officials, and Department of Labor bulletins.

unexplored. The few case studies available show that purely local organizations have attained considerable strength in state, county, and municipal services.[5]

Because of this limited information, the succeeding paragraphs may seem to give undeserved priority to organizations of national scale. This emphasis may be partly justified, however, by the greater impact of the national associations on public opinion and on personnel administration as a profession.

Employee associations have taken three forms in government service, depending essentially on the scope of their jurisdiction:

1. Unions in an occupation or industry which cuts across the spheres of private industry and government. For example, the international unions of the Building and Construction Trades and the Metal Trades Departments of the American Federation of Labor represent employees of United States Navy Yards and Arsenals, along with thousands of industrial employees in private employment. American Federation of Labor printing trades are strongly organized in the Government Printing Office. The International Hod Carriers, Building and Common Laborers' Union of America represents many municipal and some federal employees.[6] The Transport Workers' Union (CIO) organized workers in New York City's subways, bus lines, and taxi companies, according to the industrial pattern. It retained jurisdiction over subway employees when they were absorbed in the municipal service. The American Federation of Teachers might be regarded as in this category since it represents some teachers in private schools. But since public school teachers constitute 95 per cent of its membership,[7] it becomes

[5] The principal source is a field survey of personnel administration and employee organizations conducted during 1938 by the Civil Service Assembly in 22 local, state, and federal governmental units. Each case study included in this survey will be referred to hereafter as the Civil Service Assembly Survey for that jurisdiction. Other sources are: Leonard D. White, *Trends in Public Administration* (New York: McGraw-Hill, 1933), pp. 301–03 and 305–07, and James D. Errant, *Trade Unionism in the Civil Service of Chicago,* thesis abstract (University of Chicago, 1939) p. 13. Two sources of Mr. Errant's dissertation have been used. Where possible, citations refer to his thesis abstract, which is in printed form. Otherwise the complete unpublished thesis is cited. The notations "abstract" and "complete thesis" will preserve the distinction in footnotes.

[6] Civil Service Assembly Survey, Tacoma, Washington, p. 163, and Portland, Oregon, p. 177.

[7] Public Administration Clearing House, *Public Administration Organizations, A Directory,* p. 28.

for practical purposes a government service union. The Federation of Architects, Engineers, Chemists, and Technicians is a professional counterpart to the craft unions which cut across government lines.

2. Unions confined to a specific service within the governmental staff. Most prominent in this category are the fifteen Post Office Department unions which will be listed presently. In the sphere of local government, organizations of policemen and firemen are most prominent. Only the latter group has national scope, the organization being the International Association of Fire Fighters.

3. General unions of government employees. The National Federation of Federal Employees, the American Federation of Government Employees, and the United Federal Workers of America are unions of this type in the federal service. The American Federation of State, County, and Municipal Employees and the State, County, and Municipal Workers of America represent general employees of local governments.

The grouping of public service unions into these three types[8] helps to establish patterns of objectives, methods, and development which are notably different among various unions. All three types of unions represent employees of federal, state, and local government agencies. Employees on work relief projects are, of course, omitted from this discussion.

Unions of Public and Private Employees

The unions which have a large part of their membership in private employment are characterized by the similarity of their programs for dealing with their public and private employers. These organizations have never renounced the weapon of stopping work as an ultimate resort, and the right has seldom been questioned in practice. Those crafts which, like the building trades and printing trades of the American Federation of Labor, have been accustomed to signing agreements for a closed shop

[8] We are indebted to Lewis Meriam for this grouping of associations which we have slightly modified and expanded. Cf. his *Public Personnel Problems from the Standpoint of the Operating Officer* (Washington: The Brookings Institution, 1938), pp. 266 ff.

with their private employers, have frequently made the same demand upon public agencies.

It is natural that the legislative program of these unions should likewise represent a variation of the usual aims of public service associations. The sharpest clash between the two types of associations has been caused by the objection of the crafts to differentiation within the limits of the journeyman's competence. They have urged that this differentiation was implied in any scheme of classification according to actual duties. The futile attempt of the National Federation of Federal Employees to obtain a hearing as a minority group at the 1931 convention of the American Federation of Labor, mentioned by Spero in his "Employer and Employee in the Public Service," furnishes an illustration of this conflict of purpose.

There is apparent recognition of the close relation of public and private craft workers in the "prevailing wage" principle which has become the standard for compensation of skilled workmen in the Navy Yards of the Navy Department, the Ordnance Department and Quartermaster Corps of the War Department, the Panama Canal, the Tennessee Valley Authority, and other independent establishments. In 1931, 48,000 federal employees were paid according to prevailing rates.[9] The number must now have increased greatly. "Force-account" employees, exclusive of those on work relief, numbered 85,674 in January 1940.[10] While there is no available information concerning the adoption of craft union scales by municipalities, states, and counties, it is likely that the practice is sufficiently widespread to set these employees apart from those in the purely governmental occupations in regard to policies of compensation.[11]

[9] Personnel Classification Board, *Closing Report of the Wage and Personnel Survey* (Washington: Government Printing Office, 1931) includes a complete summary of these positions on pp. 309–15. As noted here, positions compensated under prevailing wage statutes do not, by any means, comprise all craft and mechanical positions.

[10] U. S. Civil Service Commission, "Civil Employment and Pay Rolls in the Executive Branch of the United States Government," January 1940, Table III. "Force-account employees are employees engaged for a specific construction, repair, or maintenance job which a government agency does itself."

[11] Leonard D. White, *Introduction to the Study of Public Administration*, pp. 343, 347, 348.

Unions in Government Occupations

The two types of unions entirely within the government services are characterized by generally similar aims and tactics. However, the organizations representing government occupations (e.g., post office laborers, teachers, firemen) combine with their general objectives certain purposes relating to their particular situation, while the general public service unions typically hold only broader aims regarding general policies of personnel selection and management. The International Association of Fire Fighters has, for example, among its purposes "to encourage the formation of sick and death benefit funds in order that we may properly care for our sick and bury our dead; to encourage the establishment of schools of instruction for imparting knowledge of modern and improved methods of firefighting and prevention. . . ."[12] The American Federation of Teachers proposes in part, "to promote such a democratization of the schools as will enable them better to equip their pupils to take their places in the industrial, social, and political life of the community."[13] Organizations in the postal service range from the highly specialized railway mail clerks' unions to the National Association of Substitute Post Office Employees, which cuts across occupational lines. Yet because of an early history of repression which is unique in the federal service, and in accord with the separate committee action on postal appropriations in Congress, the fifteen unions in the postal service have developed and maintained their separate jurisdiction without question from other unions. Their program varies only in detail, however, from that of the general federal unions. Occupational unions are about evenly divided in the matter of affiliation. The American Federation of Teachers, the International Association of Fire Fighters, and in the postal service the National Association of Letter Carriers, the National Federation of Rural Letter Carriers, the Railway Mail Association, and the National Federa-

[12] Estelle M. Stewart, *Handbook of American Trade Unions* (Washington: U. S. Department of Labor, Bureau of Labor Statistics, 1936), p. 302.
[13] *Ibid.*, p. 298.

tion of Post Office Clerks are American Federation of Labor affiliates. Ten of the postal employee associations are unaffiliated.

Service-wide Unions

The distinctive features of the general government employee organizations are their characteristic renunciation of strikes, their interest in personnel management,[14] and their attention to a body of workers which is still relatively unorganized. These unions are comparatively young, for although the National Federation of Federal Employees was organized in 1917, the other five unions in this group have come into existence since 1930: the American Federation of Government Employees in 1932, the American Federation of State, County, and Municipal Employees and the National Association of Civil Service Employee Organizations in 1936, and the two corresponding CIO unions (the United Federal Workers of America and the State, County, and Municipal Workers of America) in 1937.

Extent of Organization

Unionization of government employees is by no means crystallized. It is consequently difficult to measure the size of individual organizations or their combined strength in the total public service.

One major gap in available data is the lack of information on the number of government workers who belong to craft and laborers' unions having a membership largely among private employees. It is conceivable that statistics on this type of union membership might substantially increase the proportion of employees who are known to belong to unions.[15] Another serious shortcoming is the inadequacy of data on the membership of unaffiliated local organizations. These are particularly strong at the municipal and state levels. No representative information on the membership of unaffiliated, statewide organizations has

[14] Eldon L. Johnson, "Unionism in the Federal Service" (Unpublished thesis, University of Wisconsin, 1938), p. 169.

[15] In 1940 the International Association of Machinists had 17,000 members in its District 44, made up largely of employees in Navy Yards and Arsenals. [Figure supplied by David Kaplan, Director of Research, International Association of Machinists.]

been obtained. However, a comprehensive survey of independent organizations in the field of municipal government is included in the *Municipal Yearbook* for 1938, 1939, and 1940 (pages 339, 247, and 142 respectively). Figures from this source are incorporated in Table I and Table II.

Data on membership, moreover, are difficult to standardize. It must be emphasized that these tables fail to compare one organization accurately with another in the same jurisdiction. An effort has been made to approach comparability by subjecting these tables to the review of various union officials represented on the Committee on Employee Relations in the Public Service. The various definitions of membership employed by different organizations, however, militate against this. As one union official has suggested, paid-up membership may not give an adequate picture of true union influence in the service.[16] Membership "in good standing" has been used wherever possible, but on this point the practice of unions varies greatly.

The general picture of union membership is presented in Table II. It appears from this table that during the three-year period, 1937 to 1939, union membership has more than kept pace with an increase of 17 per cent in the number of government employees. The proportion of public employees who belong to unions has risen slightly at all the major levels of public employment. Employee organization nevertheless remains relatively less extensive in the public service than in industry as a whole. The Bureau of Labor Statistics reported in 1939 that eight million of the almost thirty-five million non-agricultural employees in the United States were affiliated with labor unions of national scope.[17] According to these data, 23 per cent of all industrial employees are organized. The organization of government employees is less well advanced (15 per cent were union members in 1939),[18] but unionization in the public service appears to be undergoing steady growth.

[16] Letter from Arnold S. Zander to Gordon R. Clapp, October 26, 1939.
[17] *Americana Annual*, 1940.
[18] Consideration of merit jurisdictions alone rather than the public service as a whole might show a much higher proportion of organization. Discussion of patronage and its relationship to unionization appears later in this chapter.

TABLE I. UNIONS OF PUBLIC EMPLOYEES

Union	Affiliation	Membership 1937	1938	1939
Post Office		*181,411*	*184,370*	*190,891*
National Association of Letter Carriers	AF of L	52,500	60,000	60,000
National Rural Letter Carriers Ass'n	None	33,611	32,170	32,091[a]
National Federation of Rural Letter Carriers	AF of L	500	600	600
National Federation of Post Office Clerks	AF of L	36,000	38,000	40,000
United National Association of Post Office Clerks of the United States	None	30,000	30,700	35,000[a]
Railway Mail Association	AF of L	21,000	21,700	21,700
National Alliance of Postal Employees	None	4,800[b]	(c)	(c)
National Association of Substitute Post Office Employees	None	3,000[b]	(c)	(c)
National Association of Post Office and Railway Mail Laborers of the U.S.	AF of L		1,200	1,500
General Federal		*93,739*	*168,400*	*122,885*
National Federation of Federal Employees	None	64,000	68,000	71,000[a]
American Federation of Government Employees	AF of L	24,739[d]	25,000[e]	26,085[a]
United Federal Workers of America	CIO	5,000[f]	15,400[g]	25,800[g]
Local Government		*144,725*	*198,682*	*262,642*
National Civil Service Association	None	18,900	22,100	25,200[h]
American Federation of State, County, and Municipal Employees	AF of L	22,000[i]	42,000[j]	47,394[a]
State, County, and Municipal Workers of America	CIO	25,000[k]	52,000[j]	53,137[a]
International Association of Fire Fighters	AF of L	39,305	40,582	44,911[h]
Local citywide associations	None	39,520	42,000	92,000[h]
Public Education				
American Federation of Teachers	AF of L	15,400	22,100	25,600
Grand Total		*435,275*	*513,552*	*602,018*

SOURCES: Unless otherwise noted, data for AF of L affiliates are from American Federation of Labor, *Report of the Proceedings*, Fifty-Ninth Annual Convention, 1939, pp. 42–43. The figures on voting strength of unions given at this source have been multiplied by 100 to determine "the average membership paid upon to the AF of L." This is a conservative measure of membership.

[a] Letter of union president or secretary to Gordon R. Clapp, 1939.

[b] Estelle M. Stewart, *Handbook of American Trade Unions* (Washington: U. S. Department of Labor, 1936). Membership in 1937 assumed to be equal to that given for 1936.

[c] Data not available.

[d] Civil Service Assembly of the United States and Canada, *Report* of Twenty-Ninth Annual Meeting, 1937.

[e] *Public Administration Organizations, A Directory*, 1938–39, p. 27.

[f] Edward Levinson, *Labor on the March* (New York: Harper and Bros., 1938), Appendix I: data on paid memberships in October 1937 solicited from the union.

[g] Letter of Jacob Baker to Gordon R. Clapp, October 27, 1939, "membership in good standing" reported to the CIO conventions.

[h] "Organizations of Local Government Employees," *Municipal Yearbook*, 1940, p. 142.

[i] Arnold S. Zander, "The American Federation of State, County and Municipal Employees," *Public Management*, September 1937, p. 260.

[j] Leonard D. White, *Introduction to the Study of Public Administration* (New York: Macmillan, 1939), p. 432.

[k] Abram Flaxer, "State, County and Municipal Workers of America," *Public Management*, September 1937, p. 262.

TABLE II. ORGANIZATION OF PUBLIC EMPLOYEES IN PUBLIC SERVICE UNIONS, 1937-39

(000's omitted)

A—Total Employees; B—Union Members; C—Per Cent Union Members

	1937			1938			1939		
	A	B	C	A	B	C	A	B	C
Federal Executive Civil Service[a]									
Postal	279	181	65	285	184	65	289	190	66
Other	562	93	17	566	108	19	631	122	19
TOTAL	841	275	33	851	292	34	920	313	34
Local Government[b]									
State	430			476			535		
County, Township, and Minor Units	299			309			500		
City	697			722			915		
TOTAL	1,426	144	10	1,507	198	13	1,950	262	13
Public Education[b]	1,211	15	1	1,211	22	2	1,208	25	2
TOTAL PUBLIC SERVICE[c]	3,478	435	13	3,569	513	14	4,078	602	15

[a] *Fifty-Fourth, Fifty-Fifth,* and *Fifty-Sixth Annual Reports of the United States Civil Service Commission.*

[b] Civil Service Assembly of the United States and Canada, *Civil Service Agencies in the United States, a 1940 Census.* Figures for 1939 are the smaller figures listed at that source for January 1940.

[c] Work relief excluded.

This picture of the extent of employee organization has value only as a general background against which the prominence of organization in a single agency may be evaluated. Marked differences appear even among the most general divisions of the public service. Organization in the federal service is stronger than in industry as a whole. Only 2 per cent of the employees in public education are union members. More striking contrasts would appear between specific jurisdictions. Yet employee relationship policies must take account of eventualities and of the impact of general tendencies among employees on the attitudes of a specific group of workers. In this sense, the statistics bear out the conclusion of Leonard D. White that organization is here to stay—a fact which must be dealt with in public employment.[19] It would be unsound, indeed, on the basis of their numerical strength alone, to make any general distinctions between unions in and out of public employment.

[19] *Introduction to the Study of Public Administration,* pp. 433–34.

Objectives

The three groups of government employee associations will serve as convenient categories in a more detailed analysis of objectives. In addition to the overlapping of purposes which we might expect, there are also marked differences between organizations at the federal and local governmental levels. These differences will perhaps tend to be diminished, since many of their causes are encompassed in the lag of association within local government staffs.

Elimination of Patronage

By definition, unions are interested in improved conditions of employment. Among these conditions the achievement of a career service stands out not only as the primary objective, but as the most consistent one. Thirty years ago, John R. Commons concluded in reporting a survey of ten British and fourteen American municipalities that "wherever we have found a class of employees organized and dealt with as such through their representatives, we have found those positions exempt from politics."[20] More recently, eighteen of the twenty-two local government organizations in civil service jurisdictions studied by Errant included in their program the "protection and promotion of civil service rights."[21] "We must strengthen the merit system and extend it to all save a few policy making positions" wrote the president of the National Federation of Federal Employees in beginning a recent statement of his objectives.[22] "No motivation of civil service unions is stronger than the desire to maintain and extend the merit system," Johnson has written after a detailed study of union participation in the struggle against spoils.[23] It is encouraging to have this testimony

[20] *Labor and Administration* (New York: Macmillan, 1913), p. 177.
[21] James W. Errant, "City-Wide Organizations of Municipal Employees," *Municipal Yearbook*, 1937 Edition (Chicago: International City Managers' Association), p. 233.
[22] Luther C. Steward, "Objectives of an Employee Union," *Personnel Administration*, February 1939, p. 7.
[23] "Unionism in the Federal Service," p. 132. Cf. the section on "The Merit System."

that the vigilance of the unions extends beyond the enactment of the civil service law into the area of administration where civic organizations favorable to merit have had difficulty in making themselves effective. At its 1937 annual meeting, Professor Harvey Walker told the Civil Service Assembly "there is no denying that employee organizations have been the best friends of the merit system."[24]

The distinguishing characteristic in the employee's espousal of the merit cause is his permanent personal interest in it, an interest which extends beyond his own jurisdiction. In the words of Lewis Meriam, "unions of government employees in a jurisdiction under the merit system have an enlightened self-interest in that system. To them it does not represent merely a righteous ideal giving efficient administration. It means an orderly and fair working life, with established recognized procedures."[25] This factor is of particular significance where, as in many local governments, the campaign for civil service legislation is at a critical stage. This point was made in his comment to a recent forum of the Civil Service Assembly by the president of the American Federation of State, County, and Municipal Employees. To quote from the *Proceedings* of the Assembly, Mr. Zander "pointed out that any number of public employees were under no merit system. In these cases, the employees themselves must bear the burden of achieving the merit system. . . . He stated that several states . . . were not administering properly the civil service laws on their statute books."[26]

On the other hand, there are outstanding cases in which the employee organizations have espoused objectives regarding the administration of the merit system which have been in opposition to those of the civil service commission or the personnel director. While James D. Errant writes of the Chicago service "since 1915 rights guaranteed by the merit law have been secured only through union pressure," he also adds "most of the organizations were promoting the merit system in a limited

[24] *Proceedings*, 1937, p. 50.
[25] *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 281.
[26] *Proceedings*, 1937, p. 72.

manner by defending their members from unjust attacks" and "some unions are perniciously active in dictating original appointments and promotions."[27]

In analyzing employee motivation in regard to merit legislation, it is interesting to note that the abolition of patronage has sometimes had a negative effect upon salaries and hours of work.[28]

> The evidence is clear that after the Civil Service Act of 1883 was passed and whole areas of the service moved from congressional patronage to merit, the federal employees lost ground and in general suffered a progressive fall in their standard of living. This fall in the standard of living was accompanied by an increase in hours of work and much more rigid standards of efficiency. The old records show that under the spoils system "the gentlemen of the departments," as the government clerks in Washington were then known, worked from ten to three, often with liberal time off for the noonday meal, and their real wages were high.

There is no evidence that services now without merit provisions furnish corresponding sinecures, but it does seem likely that employee organizations occasionally play a missionary role in conveying to politically favored employees the benefits of civil service legislation. "The union is organizing 'politicians' in public employment, is aiding them in gaining reasonable job security, and is glorying in the change which comes as they are transformed from political beneficiaries to public servants."[29]

It may be that an additional reason for the favorable attitude toward merit laws exists in the relative protection which civil service statutes and regulations offer the public employee against fear of administrative penalties for union activity, whether or not the fear be justified. Although numerous cases have been recorded in the federal service where dismissals were alleged by unions to be discriminatory, and although in recent times neutral referees have in a very few cases supported this allegation

[27] "Trade Unionism in the Civil Service of Chicago" (complete thesis), pp. 205–07.

[28] Lewis Meriam, *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 279.

[29] Arnold S. Zander, "Public Employee Unions," *Public Management*, September 1937, pp. 259–60.

in their findings,[30] it seems likely that real protection is offered by civil service rules as compared with unlimited administrative discretion. Hence the merit system represents to some extent both a condition and a product of employee organization; the associations are interested in implementing and extending it because it is the condition of their survival and growth.

The very real problem raised by the demand for extension to government agencies of closed-shop agreements as this demand comes into conflict with statutes providing selection by merit will be discussed in a later chapter.

Seniority and Tenure

What employee groups mean in advocating a "merit system" may not be, however, identical with the standards of the public personnel profession. The two points at which greatest variance would be found are the weight given seniority in promotions and layoffs, and the restrictions on the power of dismissal.

There is no question but that primary consideration of seniority in promotions and reduction of force is one of the objectives of employee groups at the local government level. Contracts of the American Federation of State, County, and Municipal Employees and of the State, County, and Municipal Workers of America with city and county authorities provide for layoff of employees in inverse order of length of service.[31] The model agreement prepared by the civil service counsel of the former union contains the following two clauses:[32]

> Promotion within the service shall be made along recognized lines of advancement in the same or similar class or type of work and shall be accorded to employees on the basis of seniority, and other qualifications to be determined by agreement between the . . . employing officer concerned and the . . . officers of the employees Local.
>
> Whenever it becomes necessary to lay off employees due to a shortage of work or a lack of funds, employees within a given department subject to the terms of this agreement shall be laid off in inverse order to their length of service.

[30] See Chapter V of this report.

[31] Ten such agreements are described in Chapter V of this report.

[32] Blank form of contract furnished by Arnold S. Zander, President of the American Federation of State, County, and Municipal Employees.

The provision of this model agreement regarding dismissal procedures is likewise of interest. It provides that the appointing officer is to have power to discipline or discharge an employee, giving him written notice. The employee may appeal to the city council, whereupon an impartial arbitration board is to be appointed. Its decision is to have binding force upon the administration. The objectives of organizations of local government employees have thus moved away from the willingness to experiment with the "open back door" which was expressed by the president of the American Federation of State, County, and Municipal Employees in 1937.[33]

An examination of the desirability of seniority policies and arbitration of dismissals is beyond the scope of this report. Yet it is apparent that they may involve modifications of or even conflicts with the principle of merit. It is easy to imagine situations in which these policies of job security might represent a real drag upon the efficiency and responsiveness of the public service.

However, the motives which prompt such objectives on the part of employee groups are easy to understand. There may be a too-zealous safeguard against personal or political favoritism in jurisdictions where personnel management has received no professional attention. There may also be a desire on the part of some employees to protect what they feel to be their vested interests in their jobs. Or the motive may be a desire to protect union members from discrimination, which employees feel is a real danger. Mr. Zander writes:[34]

> One may say blithely that we should be giving more attention to the positive side of public personnel administration and comparatively less to the old negative program (and I often say this myself); still I am not so sure. In place after place where we are establishing local unions, there is literally no indication whatever of any interest or any intention of establishing decent employment procedures.

[33] Zander, "Public Employee Unions," *Public Management*, September 1937, p. 260.

[34] Letter to Gordon R. Clapp, February 27, 1940. Mr Zander supplied copies of correspondence with scattered officials of county and municipal governments which supported this statement.

Employee groups may, in some cases, oppose the adoption of merit system statutes and regulations where such laws are considered too rigid. This conclusion is strengthened by the fact that in the federal service, where personnel administration has a longer history and wider scope, employee organizations express no desire for such rigidities. The very explicit policy statement of the United Federal Workers of America (August 2, 1938) places minor emphasis upon seniority as a factor in promotion. Concerning reduction of force, it states:

> If the system of rating, transfer, and dismissal of unsatisfactory employees works efficiently, all persons in a working force confronted with reduction will be either satisfactory or meritorious. This being the case, dismissals should be made solely on the basis of seniority. . . . Provision might be made for holding over the meritorious personnel.

The president of the National Federation of Federal Employees, speaking at a meeting of the Civil Service Assembly, suggested that:[35]

> A surrender to seniority as the controlling factor in promotions and lay-offs was too high a price to pay for employee participation in the extension of the merit system. Employee organizations should educate their membership to accept merit as a basis of promotion.

There is an opportunity for professionally competent personnel officers to collaborate with employees in interpreting the goal and standards of effective management in these areas. Employee organizations have not taken over this responsibility, but they appear to offer potential aid to the administrator who deals with them wisely.

Compensation and Hours

Salaries, wages, and hours of work are prominent among the expressed subjects of union interest at all levels of government. The actual vigor of the union's program in this regard, however, depends upon the shifting condition of the public salary levels relative to the status and trend of wages in private industry, and to living costs. During the first World War, the strain created

[35] *Proceedings*, 1937, p. 72.

by rising costs of living upon inflexible government salaries[36] made salary advances the principal union goal.[37] Three organizations were chartered during this period: the American Federation of Teachers in 1916, the National Federation of Federal Employees in 1917, and the International Association of Fire Fighters in 1918. When salary reductions were threatened by the economy drive of 1931 and 1932, the National Federation of Federal Employees, together with the newly formed American Federation of Government Employees and the postal unions, resisted strongly. Although they failed to prevent a salary cut, they eventually secured its complete restoration.[38] All three organizations of general federal employees are now working toward the establishment of a $1,500 minimum wage for full-time service.[39]

A successful campaign for the eight-hour day was carried on by the letter carriers through the Knights of Labor, even before the formation of their national organization.[40] After the passage of this law in 1888, this standard became the goal of other postal employees, who succeeded in obtaining an eight-hour law in 1912.[41] Federal employees outside the postal service have not generally been scheduled to work more than eight hours. The standard work week in the departments at Washington until 1931 was 42 hours, seven hours per day for six days. Only by a strenuous defensive campaign, however, under the leadership of the new National Federation of Federal Employees, did the government workers prevent the extension of their work week to six days of not less than eight hours in 1916.[42] The National Federation of Federal Employees is largely credited with the passage of the Saturday half-holiday act in 1931.[43]

[36] Herman Feldman, *A Personnel Program for the Federal Civil Service* (Washington: Government Printing Office, 1931), pp. 79–83.
[37] The National Federation of Federal Employees program during this period is described by Johnson, "Unionism in the Federal Service," p. 219. For conditions in the postal service, see Spero, *Labor Relations and Organizations of Public Employees,* pp. 202 ff.
[38] Johnson, *op. cit.,* pp. 225–26.
[39] *Ibid.,* p. 169.
[40] Spero, *Labor Relations and Organizations of Public Employees,* pp. 63–67.
[41] *Ibid.,* p. 179.
[42] Johnson, "Unionism in the Federal Service," pp. 220–22.
[43] *Ibid.,* p. 229.

The present goal of all three federal employee unions is a five-day week with pay for overtime.[44]

The economic welfare of the membership has been an objective of even more importance to unions in local governments. James D. Errant's study of municipal employee associations in Chicago led him to the generalization that "employee organizations with a professional outlook have not met with success."[45] And his more recent survey of twenty-two civil service organizations in cities and counties shows "that seventeen of the groups concern themselves with improvement of wages and working conditions." Moreover, "the others are located in municipalities where craft unions are strong, and the latter are instrumental in establishing adequate economic standards for the civil service workers."[46] Improvement of wages and working conditions heads the list of objectives of both the American Federation of State, County, and Municipal Employees, and the State, County, and Municipal Workers of America.[47] No detailed goals are established, probably because of the irregular standards of local governments in this regard, except that the State, County, and Municipal Workers of America look toward a "minimum yearly wage of $1,200."

A widespread spontaneous reaction to the threat of a salary cut in 1932 brought about the federation of the city and county employee organizations in the San Francisco area. From this origin, the San Francisco Federation of Municipal Employees has continued its campaign against reduction, taking the offensive stage in 1938. Despite its rejection by referendum in February 1939, the Federation has sponsored a salary standardization drive which would increase the total payroll by approximately one million dollars. The strength accumulated by this Federation, which represents 13,000 employees associated in

[44] *Ibid.*, p. 169. The National Federation of Federal Employees seeks either pay or compensatory leave for overtime.

[45] *Trade Unionism in the Civil Service of Chicago* (thesis abstract), p. 11.

[46] "City Wide Organizations of Municipal Employees," in *Municipal Yearbook, 1937* (Chicago: International City Managers' Association), p. 234. See the Civil Service Assembly Survey of San Francisco, p. 108, for a case of employee resistance to salary cuts.

[47] *Public Management*, September 1937, pp. 260–63.

more than 100 organizations, AF of L and CIO affiliates as well as independent groups, indicates the importance of economic protection to local government personnel and the effectiveness of an inclusive local federation as a counter-pressure group.[48]

Both affiliated unions of state, county, and municipal employees are seeking improved leave regulations. The fact that their objectives are "cumulative sick leave" and "proper vacation and sick leave policy"[49] indicates that they are considerably less favored than federal employees in this regard. One of these unions aims at a "five-day week and six-hour day."[50] The extension of leave to workers not benefiting from existing leave provisions has been part of the program of the affiliates of the hod carriers in Cincinnati[51] and in Portland, Oregon.[52]

Retirement Benefits

The objectives next in prominence and unanimity of support are related to retirement systems. Federal unions are interested in optional retirement after thirty years' service and further liberalization of the Civil Service Retirement Act.[53] Although many local government services lack retirement provisions, organizations in these jurisdictions do not seem to give retirement benefits as important a place among their objectives as did federal employee associations before 1920.[54] Where retirement systems already exist, some organizations of muncipal employees are now emphasizing more liberal retirement allowances as part of their program.[55] Among organized teachers, retirement benefits rank as one of three primary objectives.[56]

[48] Babette G. Goldsmith, "Municipal Employee Organizations in the San Francisco Bay Area" (Unpublished thesis, University of California, 1939), chapter 3.

[49] Arnold S. Zander and Abram Flaxer, "Public Employee Unions," *Public Management,* September 1937, pp. 259–64.

[50] *Ibid.,* p. 263.

[51] Civil Service Assembly Survey, p. 273.

[52] Civil Service Assembly Survey, pp. 178–79.

[53] Johnson, "Unionism in the Federal Service," p. 218. The preceding three pages in this thesis recount the unions' legislative efforts in behalf of the 1920 retirement act. Spero has an account of the postal unions' participation in this campaign in his *Labor Relations and Organizations of Public Employees,* pp. 280–84.

[54] No mention of superannuation benefits is made by Zander or Flaxer in their articles in *Public Management,* September 1937, pp. 259 ff.

[55] Civil Service Assembly Survey, San Francisco, p. 107, and Seattle, p. 325.

[56] Jerome Davis, "The Teacher's Struggle for Democracy," *New Republic,* March 15, 1939, p. 162.

Adjustment of Grievances

The postal organizations, the organizations of state, county, and municipal employees, and the general membership unions of federal employees include the handling of grievances among their stated objects; although no mention is made of this function by the International Association of Fire Fighters or the American Federation of Teachers, it is known that the latter organization carries appeals to school officials on dismissal of its members. The American Federation of Government Employees, National Federation of Federal Employees, and United Federal Workers of America, carry the matter a step further by including in their platform the establishment of a neutral court of appeals to act on grievance cases. "Union advocacy of a court of appeals . . . has been keenly stimulated on several important occasions by cases of alleged union discrimination."[57]

Classification

Whereas federal employees are asking "extension of classification to the field,"[58] local government workers are, in some cases, seeking "uniform position classification, and salary scheduling with equal pay for equal work."[59] Here again, the general unions in local government are beginning at a point which federal employees had reached fifteen years ago.[60] Classification is not among the objectives of the occupational unions at either level, perhaps since their homogeneous services are more often subject to wholesale fluctuation of the wage level than to maladjusted salaries in any administrative unit or occupational subdivision. To the unions of mechanical crafts in the AF of L, the principle of classification represents a danger of disruption of their basic journeyman standards. John P. Frey expressed the view of the Metal Trades Department of the AF of L regarding

[57] Johnson, "Unionism in the Federal Service," pp. 274–75.
[58] *Ibid.*, p. 168.
[59] Zander, "Public Employee Unions," *Public Management*, September 1937, p. 260.
[60] The part played by the National Federation of Federal Employees in the drafting and passage of the Classification Act of 1923 and the Welch Act of 1928 is well related by Johnson, "Unionism in the Federal Service," pp. 204 ff.

the *Closing Report of Wage and Personnel Survey* of the Personnel Classification Board in the following terms: "You have already had your attention called to the fact that some of the mechanical trades have been divided up into 18, 19, or 20 different crafts, each with a different group [i.e., scale] of pay. . . . That is the very thing which this trade union movement has fought against from the beginning."[61]

Welfare

What may be called welfare objectives have been held from the earliest times by unions in and out of government employment. In this category come insurance plans, fraternal activities, general education, and recreation programs. Death benefits, superannuation and disability benefits, and in a few cases, sick benefits formed a strong incentive to membership in the typical craft organizations until recent times.[62] The unions formed since 1915 tend to minimize this function and conduct no national plan of benefit payments. The one exception is the death assessment plan of the National Federation of Rural Letter Carriers, an organization chartered in 1920. It is understandable that the union benefit programs should take a subordinate place or be discontinued as the unions claimed retirement pensions from their employers, and as the social security program provides a substitute for similar activities on the part of unions in private industry. Organizations of policemen alone now make the payment of benefits to members or their beneficiaries a primary purpose.[63] It is likely that insurance and benefit plans are often conducted independently by locals of national associations or by local unions.[64] James W. Errant found that of twenty-two organizations of civil service employees surveyed in 1936 five had life insurance and eight death benefit plans.[65]

[61] *Report of the Proceedings of the Fifty-first Annual Convention of the American Federation of Labor* (Held at Vancouver, B. C., Canada, 1931), pp. 317–18.
[62] E. M. Stewart, *Handbook of American Trade Unions,* pp. 24 ff.; Errant, *Trade Unionism in the Civil Service of Chicago* (thesis abstract), p. 4.
[63] Leonard D. White, *Trends in Public Administration,* pp. 303–05.
[64] Civil Service Assembly Survey, Denver, p. 214, Salt Lake City, p. 127.
[65] "City Wide Organizations of Municipal Employees," *Municipal Yearbook, 1937,* p. 233.

A new, and apparently isolated, method for protecting the health of city employees and their dependents was sponsored by the San Francisco Federation of Municipal Employees and enacted in 1937. Under this plan the city deducts a contribution from the monthly salary of each employee, which entitles him to the services of a doctor selected from 1,100 approved physicians and any of the city's hospitals. The health service system is administered by a board elected by the employees who make up its membership.[66]

Education

Among the educational aspects of union programs, activities designed to stimulate union organization should be distinguished from occupational education or programs for general enlightenment. All organizations with any considerable membership conduct the first type of activity, primarily through their publications. Issuance of such publications is the rule among employee groups included in the Civil Service Assembly Survey. Thirteen of the city and county government associations surveyed by Mr. Errant reported publications. Each of the national organizations representing government employees has its magazine or newspaper, and some locals of these unions supplement this with their own publications. The craft unions generally issue monthly magazines, giving occasional space to government employee events. Part of each issue deals with technical processes valuable to the members on their jobs; in this the craft journals are, on the whole, unique. The American Federation of Teachers devotes a section of its monthly magazine, *The American Teacher,* to authoritative discussions of educational objectives and methods. The postal associations, with the exception of the small supervisors' organizations, issue monthly journals, as do the affiliated national associations of local government employees. Eldon L. Johnson makes the following comparison of publications of federal employee groups:[67]

[66] Goldsmith, "Municipal Employee Organizations in the San Francisco Bay Area," pp. 31–35.

[67] Johnson, "Unionism in the Federal Service," p. 188.

The *Federal Employee,* official organ of the oldest union, is a well-edited monthly magazine, which contains many articles of permanent interest in personnel administration, reports local activities, records all legislative happenings, conveys messages of the national officers to the members, and performs other useful services for its readers. The *Government Standard,* published weekly in tabloid size by the American Federation of Government Employees, and the *Federal Organizer* [now *Federal Record*], published biweekly also in tabloid size by the United Federal Workers, are both more descriptive than expository in their approach to union activities. In newspaper fashion, they devote a great deal of space to the recital of happenings in branches or locals in the various governmental services.

The craft unions with their apprenticeship training standards appear to have by far the best developed program of vocational training among employee groups. But among associations of less homogeneous membership, rapid advances are being made in three types of training: training for proficiency on the job, general adult education, and training for union leadership.

An illustration of a combination of these three objectives is furnished by the newly established Federal Workers School of the United Federal Workers in Washington. Of the four courses mentioned in *Personnel Administration's* brief note on the school,[68] the last is apparently related closely to occupational competence.

The Civil Service Assembly Survey revealed that as a rule employee groups have taken the initiative in organizing the few training programs which were discovered in states and cities. This is true in Milwaukee and Milwaukee County, where the Milwaukee Government Service League conducts an educational program consisting principally of talks by visiting authori-

[68] "The following interesting and unusual courses are being offered by the Federal Workers School: (1) The Social Science Workshop, a course which deals with the translation of social science data into such visual manifestations as graphs, posters, signs, and the like; (2) Parliamentary Procedure, which also includes a service to answer questions on points of parliamentary law; (3) a seminar for presidents of UFWA locals on how to be better presidents, led by head president Jacob Baker; and (4) a class in Railroad Industry, which has proved popular with RRB and ICC employees. The school now boasts an enrollment of 400." D. T. Stanley, "Union Activities," *Personnel Administration,* March 1939, p. 9. A fuller account of the school is presented by Johnson, "Unionism in the Federal Service," pp. 142–44.

ties on public administration or by city officials.[69] It is also true of the San Francisco Municipal Civil Service Association.[70] The sole case of joint sponsorship was found in the State of Wisconsin, where the State, County, and Municipal Employees Association is working with a statewide committee to formulate training plans.[71] A very significant training program is sponsored in California by the unaffiliated State Employees' Association. The 1939 Institute on Government drew 1,400 state employees to Sacramento for two days of lectures and discussions. More than 1,000 employees attended evening classes at the School of Government conducted by the Association at the Sacramento Junior College. The program is directed entirely toward improved job performance or qualification for promotion.[72] The training content of the publications of the homogeneous employee groups, the crafts, or the government occupation unions has previously been observed.

Fraternal Activities

The purely fraternal activities of government unions should not be overlooked in an examination of their sterner purposes. It is needless to catalogue them, but their importance in unifying organizations, some of which are heterogeneous, should be mentioned. Eldon L. Johnson quotes the publications of the National Federation of Federal Employees to the effect that "Experience has proved conclusively that social functions . . . are intensely important organization adjuncts."[73] "The average state, county, and municipal employee," writes Abram Flaxer, "wants an organization that will enable him to participate in the social and economic life of the community."[74]

Methods

The two sources of decisions affecting the government employees are the legislature and the administrator who interprets

[69] Civil Service Assembly Survey, p. 353.
[70] Civil Service Assembly Survey, p. 107.
[71] *Ibid.*, p. 367.
[72] Civil Service Assembly *News Letter*, August 1939, p. 5.
[73] "Unionism in the Federal Service," p. 203.
[74] "State, County, and Municipal Workers of America," *Public Management*, September 1937, p. 262.

its laws. The representations of employees are directed toward one or both of these authorities, or more commonly to the administrator first, and to the legislative body if the power or the sympathy of the administrator seems to them inadequate. The consideration which should be given employees or their associations by legislatures is a topic beyond the purview of this study, although the legislative action which employees have been able to precipitate is of interest in so far as it indicates their tactics and the influence at their command. In this report we are primarily interested in the administrator's policies with regard to employees; but among other relations he cannot help but regard employees and their associations as potential allies or opponents in his own dealings with the legislators.

Legislative Tactics

Organizations appear to have two basic roles in dealing with legislatures. They may speak as experts on a bill, deriving knowledge from their experience in the service which the legislators frequently welcome. Or they may enter the scene as pressure groups, deriving their authority from the threat of reprisal at the polls. In addition, some union representatives seem to have sufficient personal friendship with legislators to obtain special attention.[75]

The recent estimate of one of the federal employee leaders by Eldon L. Johnson indicates the ability which Congress can draw upon from union sources: "He has an intimate knowledge of personnel questions . . . of no small importance is his knowledge gained in twenty years of active union leadership. One of his characteristics is insistence upon 'having a case,' and ample supporting evidence before approaching Congress or administrators."[76] Moreover, unions have occasionally retained recognized experts outside their ranks to report to Congress on important legislation. When classification legislation was drifting in the doldrums which followed a change of administration in 1920, the National Federation of Federal Employees engaged Morris B. Lambie and Robert Moses "to act as independent

[75] Johnson, "Unionism in the Federal Service," p. 178.
[76] *Ibid.*, pp. 242–43.

investigators . . . for the purpose of establishing the best course of immediate action." They approved the findings of the Joint Congressional Commission on the Reclassification of Salaries, but submitted a new and simplified draft for legislative action. The union later engaged Lewis Meriam for a similar project.[77] Undoubtedly this type of professional investigation and the submission of the resulting information to city councils or state legislatures is the aim of the American Federation of State, County, and Municipal Employees. That organization has employed A. E. Garey, formerly Director of Personnel for the State of Wisconsin, as civil service counsel.[78]

But impartial, expert representation has not been the rule among local unions in municipalities. For a study in methods at the other extreme of sheer political dictation, see James D. Errant's account of the Chicago Street Laborers' Union. Its president established a legislative record at the state capital characterized mainly by support of a "boxing bill." With one exception, Mr. Errant referring to the civil service in Chicago concluded that "the unions . . . not only use their connection with labor as a means of gaining political advantage, but they lend direct support to the political machines."[79] It must be borne in mind, as Mr. Errant points out, that these associations are acting in a particularly virulent political atmosphere. While there are few suggestions from the Civil Service Assembly Survey of active involvement of unions in political machines, there are frequent cases of uninformed representation of employees before legislative bodies.

Government unions have not always contented themselves with presentation of the merits of their case. When less strenuous methods failed, they have gone so far as to campaign against a Congressman whom they regarded as an irredeemable foe of their legislative program.[80] A list of seven such instances is

[77] *Ibid.*, pp. 207–08. The entire history of the classification campaign as related by Johnson is interesting in this connection.

[78] Letter of Arnold S. Zander to Gordon R. Clapp, February 24, 1940.

[79] "Trade Unionism in the Civil Service of Chicago" (complete thesis), pp. 192, 208–09.

[80] The legal limitation upon such activities, a field in which recent and future legislation presages a considerable change, is discussed at the end of Chapter III of this report.

presented by Spero, including the prominent case of the defeat of Representative Borland of Missouri. Significantly he says:[81]

> The Borland campaign was primarily of concern to federal employees in the District of Columbia. Borland had aroused these workers by sponsoring a bill to increase their hours without increasing their pay. It is generally conceded that Borland was defeated in the 1918 primaries by the votes of federal employees, railroad workers then under federal control, and the central labor body of Kansas City, Missouri. Prominent leaders of the organized postal workers took a very active part in the campaign.

Spero and Johnson agree, however, that these cases are exceptional. Political reprisals do not, to any significant degree, account for the strength which the union spokesmen may have in Congress, nor are they the typical means of such political action as the unions customarily take. "The indirect influencing of elections by pointing out friends and enemies has never been exceptional."[82]

Among local government employee organizations, we find that the Civil Service League in Tacoma endorses candidates favoring civil service principles.[83] The Wisconsin State Employees Association (a local of the American Federation of State, County, and Municipal Employees) ascertains by means of a questionnaire the views of candidates on issues of interest to state employees.[84] Mr. Zander, president of the American Federation of State, County, and Municipal Employees, reports that local unions of the organizations have been asked by state legislative candidates for statements clearing their record in employee relations. The statements were to be used for campaign purposes.[85]

No implication is intended that the activities just described illustrate a legislative program which is always in the public interest. As Lewis Meriam concludes: "The employees, espe-

[81] "Employer and Employee in the Public Service," in Carl J. Friedrich and others, *Problems of the American Public Service*. Johnson has a fuller account of the episode in "Unionism in the Federal Service," p. 191.

[82] *Ibid.*, p. 194. See also Spero, *The Labor Movement in a Government Industry*, p. 271.

[83] Civil Service Assembly Survey, p. 166.

[84] Civil Service Assembly Survey, p. 368.

[85] Letter from Arnold S. Zander to Gordon R. Clapp, February 27, 1940.

cially the organized employees, do seek salary advances by pressure methods and they often combat reductions in force. Some of these reductions are in the public interest and some of them are blind and unreasoned, resulting in a serious crippling of the public service.[86] Less removed from the immediate battle, Lewis Mayers wrote in 1922:[87]

> The retirement act in particular may be said to have been forced to passage by the employees' organizations. Indeed, in the report submitted to the Senate by the Committee on Civil Service and Retrenchment recommending the enactment of that act, the committee made repeated reference to the support given to various provisions of the bill by a committee of employees whose advice it had sought (which committee was in fact designated by the employees' unions) and made no reference whatever to any support given to any particular provision of the bill either by any administrative officer or by any outside source representing citizen interest. The instance is all the more significant because such impartial criticism as that given to the measure by qualified outside organizations was substantially unanimous in condemning its provisions as improvident and not developed upon a sound actuarial basis.

This view is directly controverted by later observers.[88] Moreover, in Congress the unions' victories have been defensive or relatively circumscribed since 1931, although union membership in the federal service has doubled since that time.

A matter which is of great concern to administrators is the fact that employee organizations have sometimes sought legislation so restrictive as to impair effective administration of a particular activity. A clear case is a recent Ohio law relating to promotions in police and fire departments of Ohio cities. The law contains the provision: "No position above the grade or rank of patrolman or regular fireman in the police or fire department shall be filled by original appointment."[89]

[86] Meriam, *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 282.

[87] Lewis Mayers, *The Federal Service* (New York: Appleton, 1922), p. 553. Cf. Mayer's picture of the legislative tactics of the National Federation of Federal Employees, pp. 553–56.

[88] John M. Gaus, "The Responsibility of Public Administration," in Gaus, White, and Dimock, *Frontiers of Public Administration* (University of Chicago Press, 1936), p. 41, and Johnson, "Unionism in the Federal Service," pp. 198–99.

[89] Ohio General Code, Sec. 486–15a enacted in 1937 and amended in 1939 without change in the sentence quoted.

It is interesting, however, to note the background of this law. It was enacted as a result of the opening of a promotional examination in the Cincinnati fire department to all employees of the department including new appointees, when good administrative judgment might have limited the eligibility to more experienced candidates.[90] Failure to consult employees, or denial of their desires to express their views through their own organizations, may thus be an underlying cause of employee pressure for legislation which seriously narrows administrative discretion. Another cause, fortunately of decreasing importance, has been the sheer lack of interest on the part of public administrators in major policies of personnel administration. In recounting the experiences of his organization in promoting basic federal retirement and classification laws, Luther Steward said in 1930:[91]

> There has never with one exception been a time when we have had even a recommendation to Congress from the chief executive of the United States proposing an improvement of personnel conditions in the federal government.

To conclude: the divergent views expressed by the historians of the government union movement upon the merits of union activities in the legislatures have found three points of agreement:

1. Unions have frequently exerted great influence upon Congress and the legislative bodies of state and local governments. There is no present sign that this influence is growing, although it is becoming more sustained.

2. Union pressure has not always been for measures of indubitable public benefit; yet it is probable that at least some of the laws essential to effective personnel administration would not have been enacted in the absence of this pressure.

3. Occasionally unions of government workers have strained civil service regulations restricting political activity to campaign

[90] Information on this incident was supplied by Professor S. Gale Lowrie, University of Cincinnati. He indicated that while there is no overt evidence that the law was urged by the Cincinnati firemen's organization, the firemen "maintain very strong lobbies in the state."

[91] *Public Personnel Studies*, October–November 1930, p. 142.

for the election or defeat of a particular candidate. In these cases the unions claim cause for incitement by the direct challenge of the legislator in question, or by the consistent refusal of departmental superiors to represent their views before the legislature.

Appeal to the Courts

Union activity in the courts is a minor phase of the programs of public service unions. Employee groups have entered the courts primarily to resist dismissals, suspensions, or reductions in pay. In such cases, the organizations may provide legal counsel for the disciplined employee. The Alameda County Employees Association, for example, automatically provides counsel to dismissed members, at a cost of not more than $100. The Association makes no investigation of or finding on the merits of the case.[92] Denver, Portland, and Seattle employee organizations offer similar services to their members. The extent to which court action is undertaken by employee groups depends in such cases largely upon the machinery set up by law to handle appeals of dismissal. Employee organizations prefer to take appeals to administrative boards with employee representation rather than to the courts.[93] If an administrative channel of appeals is not available, organized employees seem to employ the same methods of court action as do nonmembers of organizations in the same jurisdictions.

Unions may resort to test cases in the courts to enforce civil service legislation from a much broader point of view. Local organizations of city, state, or county employees commonly employ an attorney on a full-time or part-time basis to carry out this function.[94] One occasion has been recorded where a labor organization attempted to thwart the plans of the personnel agency to conduct a promotional examination.[95] This was a case, however, where the union had more status before the

[92] Civil Service Assembly Survey, p. 183.

[93] William C. Beyer, "Municipal Civil Service in the United States," in *Problems of the American Public Service* (New York: McGraw-Hill, 1935), p. 133.

[94] Civil Service Assembly Survey, Cincinnati, p. 275; Milwaukee, pp. 349, 381; New York State, p. 513; San Francisco, p. 107; Tacoma, p. 165.

[95] Civil Service Assembly Survey, Milwaukee County, p. 309.

city council than in dealing with the personnel agency. There is some indication that employee groups prefer to deal with administrative bodies. They may forestall their opportunities to do so, however, by supporting civil service legislation which narrows the scope of administrative discretion.

Dealing with Administrators

We have noted a lull in union activities in Congress, partly because a system of personnel administration conducive to good morale has been authorized by existing statutes in many federal governmental units where unions exist. However, the paucity of civil service laws in the states and municipalities, and particularly in the counties, suggests that this is still the major challenge for the programs of employee organizations in these jurisdictions.[96] Nevertheless, there is everywhere evidence of a growing emphasis on dealing directly with administrative superiors.

The early associations apparently were forced to adopt lobbying tactics because department officials were, in the view of employees, intransigent, not only in regard to the employees' requests, but as to their right to make joint representations.[97] Errant observes that even after enactment of the civil service law of 1895 in Chicago ". . . the employees frequently became the objects of discrimination because of their positive attitude towards the merit principle."[98]

Later on, during the "gag rule" of 1903 to 1912, organized employees in the postal service were compelled to seek remedies through administrative channels even for situations which they believed were beyond departmental authorization. When the prohibition on direct petitioning of Congress was removed by the Lloyd-LaFollette Act in 1912, both the postal unions and the National Federation of Federal Employees, which was soon chartered, concentrated on legislative campaigns for salary

[96] Spero, "Employer and Employee in the Public Service," in *Problems of the American Public Service*, p. 220, "Local public employee organizations have usually sought their ends through political methods."

[97] Spero, *The Labor Movement in a Government Industry*, pp. 65 ff.

[98] *Trade Unionism in the Civil Service of Chicago* (thesis abstract), p. 5.

increases, classification, and retirement. It was not until the administration of Will H. Hays as Postmaster General under President Harding that any real opportunity was presented the postal unions for normal dealings with department officials. Hays' program was at that time a landmark in the public service. It represented advanced practice in the labor relations of private concerns and was a thorough innovation in the Post Office Department. Aside from the many minor acts which set an atmosphere of recognition of and cooperation with associations as representative of the staff,[99] Hays' most important step in facilitating negotiation was the creation of a National Welfare Council composed of representatives of employee associations and the welfare director of the Department. The authority of the Council was stated in Article VII of its constitution:[100]

> All matters affecting working conditions of employees or relations between employees and the Post Office Department, or cooperation between employees, officials, and the public, are legitimate subjects for discussion and consideration by the council.
>
> Questions of national importance may be considered by the council if these are referred to it by the Post Office Department, by local welfare councils, by postmasters, or by employees. The council may of its own initiative consider such questions. Appeals from rulings of local administrative officials shall be considered by the council when these are referred to it by the Post Office Department. The council may request the department to refer to it for consideration appeals which have been brought to the council's notice by others. The findings of the council as expressed in a majority vote shall be transmitted through the chairman to the Postmaster General.

This was supplemented in the railway mail service at the initiative of the union by the institution of local committees of employees and management to consider all contemplated changes of working conditions.[101] The working of the plan was marred by the lingering tradition of absolute authority among permanent officials of the Department. There are several indications that its progress lagged behind employee desires and

[99] Spero, *The Labor Movement in a Government Industry*, p. 244.
[100] *Ibid.*, p. 248.
[101] *Ibid.*, p. 259.

the practice of advanced employers.[102] Nevertheless, this program pioneered in an area where many agencies are now following.

The techniques adopted in recent formalized procedures will be compared in the fourth chapter of this report, along with a consideration of their relation and value to management. It may be well here, however, to summarize types of approach which unions have made to administrators, and the types of pressures they have used to advance their claims.

Spero categorized the unions he studied in the Post Office Department as of either the "stand-in" or the "rank and file" variety. The philosophy of the former group, as he has pictured it, is that the friendship and good will of supervisory officials is the union's greatest asset. In some cases, the personal acquaintance of a union head with top administrators contributed to this relationship.[103] Spero often relates a moderate turn in the policy of an association with the intervention of a postmaster or assistant postmaster in union councils.[104] Usually against their will, these associations "fell from official grace" as the demands of their members brought the disapproval of postal authorities. The unions which adopted policies of independent action, although "in no sense antagonistic to the heads of departments," were practically forced to affiliate with the general labor movement by the denial of other resources in representation before Congress or the Department.[105] Thus, Spero concludes that affiliation with the labor movement has been the characteristic feature of those organizations which have declared their "independence of departmental tutelage." Organizations which rest their case upon departmental favor represent "a type of postal labor organization which belongs to a period now passed."[106]

Eldon L. Johnson, studying general federal service unions, has reached a somewhat different interpretation of the course of union tactics. He traces an increasing conservatism through

[102] Johnson, "Unionism in the Federal Service," pp. 272–74.
[103] *The Labor Movement in a Government Industry*, p. 84; cf. also pp. 292–93 for a comparison of two associations in this regard.
[104] *Ibid.*, pp. 116, 294.
[105] *Ibid.*, pp. 121–22.
[106] *Ibid.*, pp. 294–95.

the history of both unions which have been long in action.[107] Government employees have been organizing extensively for so brief a time, however, that it would be impossible to generalize upon this finding that militancy of tactics varies inversely with age.

Organized employees have confronted their superiors with various types of appeals in order to improve their status through administrative regulations or the more satisfactory enforcement of legislation. The first approach is undoubtedly a request made to the responsible authority on the basis of the merits of the claim. The objections and disciplinary actions of supervisors have often followed the supposed short-circuiting of this approach by the employee group.[108] The next recourse has been an appeal to higher administrative offices; in the case of federal employees, appeal has successfully gone to the President, and even the threat of such an appeal has been considered of value by the union involved.[109]

Going outside the government agency for support, unions may publicize their demands either through their own press or newspapers of general circulation. "When we don't seem to get reasonable reactions to a suggestion of a state wide nature, we always have recourse to the newspapers and thus to public opinion, but have only used this once."[110]

In many cases, the issuance of dramatic charges against government departments has been echoed in the general press following releases in union publications. Such was the principal factor in the influence of the remarkable journal of the railway mail service, the *Harpoon*. Almost single-handed, its editor aroused public opinion against the "gag rules" which concealed the scandalous conditions of the railway post offices prior to 1912.[111]

107 "Unionism in the Federal Service," pp. 185, 196, 242, 252.

108 *Ibid.*, p. 275; Spero, *The Labor Movement in a Government Industry*, p. 130.

109 Sterling D. Spero and Samuel Paul Puner, "Uncle Sam, Privileged Boss," *Nation*, January 8, 1938, p. 43.

110 Letter from a local union president, dated March 19, 1940, supplied by Arnold S. Zander.

111 Spero, *The Labor Movement in a Government Industry*, pp. 129 ff., and p. 173.

It is conceivable that such publicity might involve dangers to employees corresponding to its efficacy as a weapon. Particularly would this be true were complaints of employee associations made available to a press generally hostile to the administration against which the charges were brought. The use of such "propaganda" by organizations of local government employees has not been comprehensively reported. Errant believes that the lack of such appeals to public sympathy has been a mistake on the part of Chicago municipal employee unions.[112]

Akin to publicity, and assumed to be chiefly of value for the notice it attracts, is the type of demonstration which was staged in front of the U. S. Department of Commerce Building in 1934 to protest the discharge of a union president from the NRA staff. The union in question, the American Federation of Government Employees, later repudiated the "picketing," and at its 1934 convention, voted to prohibit generally "other public acts . . . which have the effect of embarrassing the Government."[113] Mass meetings and the circulation of petitions have been interpreted as such embarrassing acts by this union. These tactics are exceptional also in the state and municipal services, for no such incident was recorded in the twelve agencies surveyed by the Civil Service Assembly in 1938.

A tactic which is irregular with employee associations, but not unusual in the absence of established channels of representation, is the exertion of political influence upon the administrator. "The fact is," writes Lewis Meriam, "that union officials, if they see fit, can take individual cases to Congress by way of individual members of Congress. The Congressmen may as individuals intervene in the situation, presenting their views to the appropriate administrative officer. This is done fairly frequently in individual cases."[114] In Chicago, political persuasion seems to be the almost unvarying recourse of employees who have some claim to make upon a commissioner.[115] No men-

[112] "Trade Unionism in the Civil Service of Chicago" (complete thesis), p. 217.
[113] Quoted by Johnson, "Unionism in the Federal Service," p. 92.
[114] *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 273.
[115] Errant, "Trade Unionism in the Civil Service of Chicago" (complete thesis), pp. 209 ff.

tion of this type of coercion is made by the Civil Service Assembly Survey, but the nature of political sanctions would obviously make their documentation difficult.

Strikes appear as the final possible weapon in dealing with administrators. A part of Chapter IV of this report discusses the extent of strikes in public services, the attitude of unions of public employees toward them, and the remedial measures which appear to be effective. The entire subject is therefore deferred to be considered later as a unit.

Chapter III

The Government as Employer

THOSE who develop and administer employee relationship policies deal not only with practical problems of management but also with presuppositions of employees and supervisors concerning their "right" on the one hand and their "authority" on the other. The assumptions are, of course, held with considerable tenacity by both groups. This conflict of points of view is by no means restricted to the government service. A large and growing literature of labor relations adequately bears out this point. However, in the public service certain unique assumptions concerning the status of employer and employee are superimposed upon the ordinary views: assumptions grounded in the theory of governmental sovereignty or in the principle of democracy. It is the purpose of this chapter to examine these assumptions and, so far as a consensus can be found, to clear the ground for discussion of specific problems in the next two chapters.

THEORETICAL ASSUMPTIONS

Government as Master

The traditional view assigns to the government the role of master; the government employee becomes the servant of the State. This position is related to the legal theory that in the process of employment the government becomes party to no contract as between equals. Spero has quoted from Nicholas Murray Butler a passage which might be considered the epitome of the arguments for governmental firmness: "Servants of the State in any capacity—military, naval or civil—are in our Government, there by their own choice and not of necessity. Their sole obligation is to the State and its interests. There is no analogy between a servant or employee of the State and the

State itself on the one hand, and the laborer and private or corporate capitalist on the other."[1]

Civil vs. *Military Authority.* The analogy between civil and military authority of government has been advanced here and there, as Spero shows, by those who advocate more rigid control over civil servants. The government's claims upon its armed forces are, in actual fact, unique. It may require them habitually to risk their lives without thought of redress, subject them to a unique internal discipline which stems from the Constitution, and may augment them by conscripting the services of any citizen for military duty.[2] Emergency is the essence of military service, and even in long periods of peace the government must maintain the discipline of its army and navy constantly in readiness. Some of these conditions apply in modified form to police and fire services. The view is frequently advanced, however, that military employment is distinguished even from these peacetime occupations, since it is bound by a fixed term of service.[3] The prevailing view seems to advance little reason for abandoning the distinction between the civil and the military service which is embodied in our terminology.

Authority as the Basis of Prestige. A more formidable basis for the claim by the government of absolute power over its subordinates is Herman Finer's observation:[4]

> The position of civil service associations is peculiar in that the employer is the State, an institution of which undisputed authority is the essence, because that authority is so necessary and at the same time so liable to daily dispute. The State is a condition of subjection for us all, no matter what rights we obtain from this subjection; and so many are ready to throw off this subjection when the opportunity offers, that the State is forced to be especially stern.

While this view is not elaborated to the status of an argument, it apparently implies that popular obedience to the State de-

[1] Sterling D. Spero, *The Labor Movement in a Government Industry,* p. 17. Herman Finer has cited expressions of this attitude in pre-war France and Germany: *The Theory and Practice of Modern Government* (London: Methuen & Co., 1932), vol. 2, pp. 1404, 1413.

[2] Spero, *The Labor Movement in a Government Industry,* p. 20.

[3] David Ziskind, *One Thousand Strikes of Government Employees* (New York: Columbia University Press, 1940), p. 9.

[4] Finer, *The Theory and Practice of Modern Government,* pp. 1400–01.

pends largely upon the State's prestige as a sovereign. Any diminution of its authority in its own household would presumably weaken the obedience of the public at large.

The acquisition of new service functions by governments placed a new strain upon this view. Harold Laski writes:[5]

> A state which limited its services to the provision of police, defense and justice had hardly need of new conceptions. But with the advent of what Professor Dicey has called the collectivist age the infallibility of public power was no longer acceptable. The state itself became an industrial instrument; and it was inevitable that those who worked for it should be unable to regard it differently from any other employer. Just as the private entrepreneur was being more and more subjected to a new legislative status, so did the worker desire that the state should recognize the superiority of law to itself.

Finer's rejoinder is that regardless of its function the public enterprise has a unique status. The comparison of a public service with a private utility overlooks "the social conscience which the state imposes upon individual consciences when it undertakes a service."[6] Granting this revitalized base for governmental sovereignty, has the status of the public employee been defined thereby as unique? On the contrary, it may still be possible that the government best discharges its peculiar responsibilities by a liberal attitude toward the prerogatives of its employees. That may become a part of its "social conscience."

The assumption, which appears increasingly realistic, that governmental units are destined to undertake many new business functions adds significance to the argument for tempering the sovereignty of the state in dealing with its employees.

An extreme application of civil service, with drastic emphasis upon the idea of status, might reduce large areas of the labor movement to a shadow. To say that perfected public administration can be relied upon to consider the interests of all classes is well taken in part but may slight two considerations. First, whatever the ownership, there are inherent problems in the relation of manage-

[5] Harold J. Laski, *Authority in the Modern State* (New Haven: Yale University Press, 1927), pp. 324–25.

[6] *The Theory and Practice of Modern Government*, p. 1407.

ment and men that can hardly be satisfactorily adjusted in an atmosphere of undisputed authority. Second, if totalitarian types of social structure are to be avoided, a truly autonomous labor movement is an element to be conserved even at the cost of much inconvenience.[7]

The People as Employer

The impact of the democratic principle upon the traditional concept of the sovereign employer has been the subject of almost paradoxical interpretations. On one hand, the legislatures have recoiled from the apparent independence of the civil service over which they had acquired power, and have set about to maintain and even tighten the government's control over it. On the other hand, suffrage gave the civil servants a share in this control. To some observers, this power of citizenship on the part of government employees obviates their normal need as employees for participation in management. Others reason that the government, which was democratically appointed, ought to be democratically administered.

The Employee's Share of Control as a Voter. The first argument growing out of the concept of democracy is that the civil servant's share in the control of his working life should be exercised through his capacity as citizen rather than as an employee. Since he participates in electing the government, he should not ask a further voice in it.

> This denial of bargaining power on the part of [government] employees, it is frequently urged, works no great hardship since conditions of labor in the public service are fixed by legislation and the public employee as a citizen can always exert effective pressure on the legislature. But the public employee is subjected to an elaborate set of restrictions on his political activity. These restrictions are the result of the attack of civil service reformers on the spoils system. They aim to preserve the nonpartisanship of the service, to prevent political influence from overriding individual merit in appointment and advancement, to prevent the party in power from attempting to turn the service into a partisan machine to keep it-

[7] Arthur W. Macmahon, "The New York City Transit System: Public Ownership, Civil Service, and Collective Bargaining," *Political Science Quarterly*, June 1941, p. 190.

self in office. From the employee's point of view, these restrictions limit him not only in seeking to improve his conditions of work, but also in attempting to make his voice heard on matters of general public policy in which, as a citizen, he has a stake.[8]

The practical question of the effectiveness with which the civil servant, as a citizen, can influence his employer thus becomes relevant. If it provides him this channel of forceful expression, the State may logically argue that he does not need the ordinary rights of collective bargaining.[9] Some of the statutes in this regard are summarized at the end of this chapter.

It is at once apparent that these rules, however interpreted, are far more stringent than those which prevailed in Europe prior to the establishment of the new systems of statehood of recent years. The constitution of the German Republic not only guaranteed freedom of inner opinion to civil servants, but also freedom to profess this opinion as it was represented by a political party.[10] Officials were "forbidden to use their official or social power to influence votes"; otherwise they were free to make political speeches or engage in other public campaign activity so long as they did not "promote, by positive activity, the efforts of political parties who wish to abolish the bases of the existing republican forms of the State by violence."[11] The bounds within which British civil servants participate in elections are less uniform, but quite similar. Government industrial staffs are given even greater leeway.[12] The French civil servants were of course, subject to least restriction; such prohibitions as apply to political activities were administrative and flexible.[13]

[8] Spero, "Employer and Employee in the Public Service," Monograph 9, *Problems of the American Public Service* (New York: McGraw-Hill, 1935), pp. 173–74.

[9] Lewis Meriam, *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 279.

[10] Leonard D. White, "Constitution of the National Whitley Council for the Administrative and Legal Departments," in *Civil Service in the Modern State* (University of Chicago Press, 1930), p. 23.

[11] Finer, *The Theory and Practice of Modern Government*, vol. 2, pp. 1389–90.

[12] Finer, *The British Civil Service* (London: The Fabian Society, 1937), pp. 201–04. Leonard D. White describes British restrictions as somewhat more binding. See his monograph on the "British Civil Service," in *Civil Service Abroad* (New York: McGraw-Hill, 1935), p. 46.

[13] Walter R. Sharp, "Public Personnel Management in France," in *Civil Service Abroad*, Leonard D. White, ed., p. 151.

Finer compares American restrictions unfavorably with these standards.[14]

The mistake to be guarded against is that of being unjustly restrictive to the official. This, owing to an unfortunate administrative history, the U.S.A. has not been able to avoid, and her present law and regulations are rather of the nature of an undue reaction from the blatant evils of the "spoils" system than a national settlement of the problem of political activity.

But American civil servants are not sheltered from the opposition which is everywhere organized against their legislative aims. Both Spero and Meriam emphasize this point. The latter writes:[15]

Government employees are in a peculiarly vulnerable position for two reasons: (1) in last analysis all the vital matters of their employment are fixed by legislative action; and (2) as a rule their salaries come from taxes, and many organized pressure groups outside the public service have as a cardinal objective the reduction of taxation. In many branches of government, expenditures for personal services are by far the major item in the administrative costs of government and thus these pressure groups are seeking one or both of the following objectives: (1) the reduction in the number of employees, or (2) the reduction of salary levels. If the organized government employees cannot affiliate with outside groups who are on the other side, their position is extremely weak.

The problem is made more difficult where external pressure groups may be bent upon the serious curtailment of governmental effectiveness, as distinguished from a particular governmental function.

As recently as 1928 the then President of the United States Chamber of Commerce could publicly state, without arousing serious protest in the business community at least, that "the best public servant is the worst one. A really efficient public servant is cor-

[14] Finer, *The Theory and Practice of Modern Government*, vol. 2, p. 1391. This comment was, of course, made prior to the enactment of the Hatch laws.

[15] Meriam, *Public Personnel Problems from the Standpoint of the Operating Officer*, pp. 278-79. See the parallel statement of the European condition by Carl J. Friedrich and Taylor Cole, *Responsible Bureaucracy* (Cambridge: Harvard University Press, 1932), p. 62, and on p. 86 the strong statement, "It must be said that definite machinery is needed to counteract the tendency of the public to pauperize the public servant."

rosive. He eats holes in our liberties." No doubt there are still individuals who hold similar opinions, but that attitude is no longer the representative one.[16]

Ordway Tead is thus led to advocate politically effective organization of government employees to preserve neutrality in the governmental organization.[17]

I cannot escape the conclusion that political pressure from special interests will have to be met, in part at least, by what are essentially political pressures from (among others) public servants themselves.

Tead's point is yet, however, more by way of advice than of realization. Three factors must be considered: the fact suggested in the preceding chapter that only in exceptional cases do federal employees risk infraction of the civil service rules to engage directly in the campaign of a legislator; the subconscious distrust with which they are regarded by the populace;[18] and the active partisanship of the "economy" groups. These factors combine to cast grave doubt upon the thesis that as citizen participants in the determination of their working conditions, government employees may be denied the share of internal control which is implied by collective bargaining in industry. Several observers have pointed to the growing similiarity of public and private workers as the former concern themselves increasingly with administrative decisions within the bounds of the law, and the latter obtain more extensive legal protection and minimum guaranties.[19] There is no marked dispute upon the significant point (although Mayers, at least, thought it might become a menace) that only through organization along trade union lines do civil service employees obtain any considerable voice in the statutory determination of their working

[16] J. Donald Kingsley, "Some Aspects of the American Public Service," *Public Administration*, April 1938, p. 196.

[17] *New Adventures in Democracy* (New York: Whittlesey House, 1939), p. 112. But: "I can see as an inevitable consequence of politically effective organization of government employees a complete negation of the merit system."—Luther C. Steward, letter to Gordon R. Clapp, January 29, 1940.

[18] Friedrich and Cole, *Responsible Bureaucracy*, pp. 13–14.

[19] Eldon L. Johnson, "Unionism in the Federal Service," pp. 12, 287.

conditions.[20] Hence their status as employees of a responsible government can hardly be held to justify the denial to public employees of the rights of self-organization and collective representation.

Democracy within the Public Service. The initial reaction of the democratically constituted governments to the body of public employees was, as Herman Finer explains, one of distrust and fear.[21]

> Decades have been required to bring some mildness into the State's relations with its servants, and the concessions have never been made but with great misgivings by their donors. Parliaments are in fact dreadfully frightened by Civil Services: they and society seem to be lost without them and lost with them, and they feel compelled to treat them in a way which has, in the last generation, at least, not been tolerated by the private employee.

Friedrich and Cole offer an explanation of the popular "democratic" attitude toward the hierarchy of the civil service:[22]

> The great modern bureaucracies were developed by the monarchs of the seventeenth and eighteenth centuries. As a result, the fierce struggle waged against these monarchs over the control of these bureaucracies partly fed upon arousing popular indignation against the bureaucracy itself, although nobody who in this fashion attacked the hierarchies has ever been known to suggest any substitute for them. This natural tendency of all those engaged in the fight for the victory of democracy to decry the bureaucrats as servants of the prince (which they were in the eighteenth and nineteenth centuries in an ever more limited degree) has led to constructing a specious antithesis between democracy and bureaucracy and a widespread belief that bureaucracy was necessarily "irresponsible" and therefore undemocratic.

One aspect of the early expression of this lack of confidence in the bureaucracy was the doctrine of rotation in office. The

[20] There still remains, as Lewis Meriam observes, the employee's right as a citizen to appeal to his representative in the legislative body. (*Public Personnel Problems* . . . p. 230.) But the theory of appointments on merit seriously weakens this as a consistent recourse. Employee organizations have, on the other hand, made effective use of this recourse.

[21] Finer, *Theory and Practice of Modern Government*, vol. 2, pp. 1384–85.

[22] Friedrich and Cole, *Responsible Bureaucracy* (Harvard University Press, 1932), pp. 3–4. For a specifically American description of this tendency see Carol Agger, "The Government and Its Employees," *Yale Law Journal*, May 1938, pp. 1110-11.

same fears which were aroused by the thought of a permanent and thereby autonomous civil service were later rekindled by the possibility of an independently organized public personnel. Particularly was the objection raised that unionization might lead to control of the civil service by an outside organization. A bulletin issued to taxpayers in Baltimore thus comments on "announcements that the City Administration agrees to the unionization of city employees:"

> The real point of this question of unionization is the proposal, and the City Administration's agreement thereto, to share with agencies outside the municipal government the administration of the municipal personnel . . . . such a proposal ignores the constitutional right of the people of Baltimore to govern themselves.[23]

But powerful arguments have been presented in recent years to the effect that a democratic government can hardly isolate the personnel of its executive service from the fundamental political rights which constitute the basis of democracy.

> How far is the State justified in depriving a large class of its citizens of the democratic right of free association? If deprived of this right will the State secure a desirable class of recruits and retain the services of such a class? . . . There is always danger that the picture of the civil servant as a citizen and a human being will be obscured by the concept of him as a "legally created homunculus." Necessarily more largely a creature of the law than his fellow workers in private employ, it is easy to make him a kind of legal abstraction or an automaton. Already deprived of some of the political rights of the ordinary citizen, the State should move slowly in adding to his disabilities. Morale is compounded of many elements, but a contributing factor is certainly the consideration that he has the right of self-direction and self-expression.[24]

But if these rights are permitted, does the government thereby curtail its sovereignty? The answer depends on one's concept of the State. If it is conceived as an entity independent of its

[23] Commission on Governmental Efficiency and Economy, Inc., "What Unionization Means to Municipal Employees, to the Taxpayers, and to the City Government in Baltimore," *Your Tax Dollar*, March 23, 1938.

[24] William E. Mosher and J. Donald Kingsley, *Public Personnel Administration* (New York: Harper & Bros., 1936), p. 512. Note that the argument rests upon considerations of efficiency as well as of democracy; the former will be developed in Chapter IV of this report.

agents (parliaments and officials) deriving clear and detailed authority from the people, any autonomy of its personnel would constitute an abrogation of sovereignty. This view is expressed in the very common statement that the government worker is employed by the whole people.[25] But this oversimplifies a complex problem. "*Raison d'état* lost its magic exactly at the point where the variety of group-life made it clear that the will of the state is operated by its agents and that those agents, whom the dissentient worker might himself help both to choose and dismiss, could lay no claim to infallibility."[26]

Practically speaking, it is by no means certain that the popular mandate is embodied in the decisions of the administrative officer who represents the government to the subordinate employee. Analyzing the shortcomings of Will Hays' reforms in postal employee relations, Spero wrote: "It is a long way from the Department at Washington to the offices of the field officials where the policies of the administration are carried out and often distorted. A change in departmental policy does not change the habits of action or the trend of mind of the local chiefs."[27]

In his intensive study of the Post Office Department, Spero has, in fact, found several instances in which actions were taken contrary to the interests of the service in what seemed to be an effort to stifle union organization or to adhere to a personal standard of economy. Thus "reorganization of the railway mail service, in addition to making the railway postal clerks a bitterly hostile and discontented group of workers, reduced the efficiency of the postal service to so low a point as to rouse a storm of [public] protest against the administration's methods."[28]

Sometimes these actions were clearly in violation of Congressional intent:[29]

Supervisory officials, whether they liked it or not, had no choice but to direct the work of their subordinates in accordance with the general policy of the administration. With "economy" the rule of

[25] For a recent elaboration see *Proceedings,* Twenty-ninth Annual Meeting of the Civil Service Assembly, 1937, p. 62.
[26] Harold J. Laski, *Authority in the Modern State,* pp. 325–26.
[27] Spero, *The Labor Movement in a Government Industry,* p. 262.
[28] *Ibid.,* p. 197. For other examples see pp. 82, 89, 102, 107, 119.
[29] *Ibid.,* p. 192. Similar cases appear on pp. 188, 193, 200, 210.

the day, they were expected to keep expenses down. Their own records and advancements depended largely on the savings they were able to show in their little field of authority. This spirit, along with certain rulings of the Department which gave the "supervisories" their cues, resulted in the violation of a number of important employee protective laws.

The careful study of a single federal service has established the fact that government administrations are not *infallibly* responsive to popular control through the legislature, and also the fact that employee opinion, organized and articulate, did in this particular case act as a corrective in the direction of the public will. There is nothing inherently distinctive about the postal service in this regard.[30] This partly explains Mosher's statement concerning the effect upon bureaucracy (conceived as irresponsible) of employee associations: "The only real remedy for bureaucracy which I know is organization and proper recognition of the representatives of the organization as having a partnership share in its administration."[31]

Another consideration which adds meaning to such a statement is the propensity of organized employees for positive contributions to public administration. The familiar fact that legislative action leaves much for the administrator to fill in implies vast opportunities of this kind. "Public opinion, unorganized and only intermittently exerting a legal sanction at the ballot box, cannot supply systematic, current control over administration. This is partly because the public is not interested until the matter becomes a scandal, and partly because there is no method for focusing public opinion directly upon administration and making it effective except as the task is delegated to representatives of the people."[32]

We have already reviewed in the preceding chapter specific cases in which employee groups sponsored legislation or con-

[30] Spero adds an incident from the municipal field in *Proceedings*, Civil Service Assembly, 1937, p. 67.

[31] William E. Mosher, "Implications of an Enlightened Personnel Policy," *The Library Journal*, November 15, 1937, p. 851. See the practically identical statement of Walter R. Sharp in the *Encyclopaedia of the Social Sciences*, vol. XII, p. 636.

[32] Harold W. Dodds, "Bureaucracy and Representative Government," *The Annals*, American Academy of Political and Social Science, January 1937, p. 169.

ducted activities conducive to administrative efficiency but it may be well to take account of some generalizations not confined to American experience. Walter R. Sharp, writing in the *Encyclopaedia of the Social Sciences* states that "the better organized staff associations in every country are compelling the adoption of more efficient office methods and equipment, better accounting and reporting practices and labor saving devices and, for the most part, are instilling into the mass of state employees a stronger sense of courtesy and obligation toward the public they serve."[33] Summing up the results of the Whitley system in the British civil service, Leonard White concluded that "the official side has gained by unlocking a storehouse of constructive cooperation in staff experience. . . . Certainly the staff are prepared to go forward as rapidly as the official side will allow this form of cooperation,"[34] and yet "the establishment of the Whitley system has not interfered with official responsibility."[35]

Thus, some hold the view that to deny the civil service personnel access to governmental administration through other than the ordinary political channels means a double loss to the State. It removes an occasionally vital check upon the responsibility of its supervisory officials and precludes staff contribution to the improvement of the machinery by which the government acts. The danger of repression was stated in its broadest terms by Charles A. Beard. He said, "Unless public officials are subjected to internal and external criticism of a constructive nature, then the public personnel will become a bureaucracy dangerous to society and to popular government."[36] It would probably be justifiable to deny this internal criticism if it were aimed at the destruction of the existing form of government.

[33] "Public Employment," vol. XII, p. 636. "Staff associations" refers to both professional and union organizations.

[34] From the second report of the Royal Commission on the Civil Service (1914), as quoted in Leonard D. White, *Whitley Councils in the British Civil Service* (University of Chicago Press, 1933), p. 340. It will be remembered that the "staff" acts through civil service unions.

[35] *Ibid.*, p. 341.

[36] "Administration, a Foundation of Government," an address to the Society for Public Administration, Washington, December 29, 1939.

We have found no evidence that such broad aims have been fostered openly in this country. Sharp makes a similar generalization about the European democracies as existing in 1935.[37]

Self-rule by the Public Services

The modern "pluralist" school of political thinking contributes a fresh viewpoint to the question of governmental authority which may have great bearing upon employee relations. The ramifications of the theory go far beyond the scope of this study,[38] but the essential tenets are too significant to disregard. Pluralism had a practical counterpart in France among the syndicalist associations in the civil service. But pluralist theory has been systematized chiefly by British political scientists formerly exemplified by Harold Laski.

The method of the school is pragmatic. Their attack upon state sovereignty grows out of the facts of employee organization and governmental assent to employee claims. Where we have been questioning the rights of employees under State authority, Laski asks whether final sovereignty can be arrogated to the State in view of the unionization of its staff. He thus writes of the French civil service after the partial legalization of civil service unions in 1901:[39]

The truth is that the character which the lawyers attempted to attach to the state dates from a time anterior to the advent of democracy. It is impotent in the face of administrative coalescence. It might work when the right of association had not yet so far advanced as to give the civil servant the opportunity to organize his corporate interests. But immediately he had discovered what had been released by the law of 1901, the concept of a sovereign state which determined his situation without reference to his wishes and without the recognition that he had rights it could not infringe became impossible. It was exacting from him the surrender of

[37] See Walter R. Sharp's comment on French administrative syndicalism, of which one might most expect extreme objectives, "Public Personnel Management in France," in *Civil Service Abroad*, p. 149.

[38] A bibliography of the entire subject is found on pp. 385–89 of Walter Milne-Bailey, *Trade Unions and the State* (London: Allen & Unwin, 1934). See also the excellent article "Pluralism" by Francis Coker in the *Encyclopaedia of the Social Sciences*, vol. XII, pp. 171-73.

[39] Laski, *Authority in the Modern State*, p. 363.

exactly that which he had combined in order to attain. The sanction of law is not its existence but its ability to secure assent.

As defined by their most feasible proposals, the goal of the pluralists as of the administrative syndicalists is autonomy exercised within the basic decisions of the representative legislature.

Each great service would have its own internal controls, but these would be held together by an individual or a group or both, controlled in turn by the entire people. In short, we find that bureaucracy and democracy are not antithetical, but that they belong to each other as structural aspects of a fully organized living community. The group as a whole can act by majority decisions. Such decisions dispose of the fundamental issues. There is no apparent reason why this system of associational group action is going to undermine the authority of the superior officials when dealing with their individual subordinate colleagues. If it does anything, it will strengthen the hierarchical principle, because the increased corporate consciousness will be a bulwark against the disturbing interference of allegiance to political parties. . . .

Such partial self-government within each service might provide an effective check against the inclination of the public at large to hinder the healthy development of the civil service in a democracy. For, even though the final decision would not be taken away from the public, the united opinion of all those who operate the particular service might become a powerful force in moulding the opinion of the public at large. For this opinion is nowadays, after all, compounded of the opinions of the more limited groups which together constitute the community.[40]

By such organization, the pluralists expect to answer the two questions which under the traditional concept of sovereignty, seem to present a dilemma: How to obtain the vital cooperation of the civil service, and yet maintain the confidence of the public in the responsibility of the government.[41]

While the pure philosophy of pluralism, like its syndicalist realization, has hardly been introduced in the United States, it can be discussed in terms of tendencies. The increasing voice of the staff in the definition of personnel policies is one such

[40] Friedrich and Cole, *Responsible Bureaucracy*, pp. 88–89.
[41] Laski, *Authority in the Modern State*, p. 387, and Milne-Bailey, *Trade Unions and the State*, pp. 271–72.

tendency that will be taken up in the following chapter.[42] Another tendency toward the harmonization of staff participation with popular control is envisioned by John M. Gaus.[43]

> Certainly in the system of government which is now emerging, one important kind of responsibility will be that which the individual civil servant recognizes as due to the standards and ideals of his profession. This is his "inner check."

These are by no means revolutionary developments. "On the whole, the liberal democratic State tolerates, and even encourages, the existence of such 'spontaneous democracies' so long as they do not interfere with its own corporate functioning."[44]

It is possible at this stage to reach a conclusion which represents common ground among the theories of the nature of the democratic state in so far as they take account of the facts of government employment. This conclusion is that political theory leaves the way open for the admission of employees to some form of self-assertion within the administrative hierarchy. There has been no agreement upon arguments which would compel such participation, nor definition of the form it should take, nor the scope or degree of employee action. These considerations will be the subject of the specific questions raised in the following chapter. Beyond this very general consensus, we have found philosophical concepts of the government as an employer too controversial to determine policies of employee relations. We have already retreated frequently to generalizations available from governmental experience, and in the following two chapters shall test specific issues solely by the criterion of efficient management.

In the meantime, it is important to consider three concepts grounded, not in political theory, but in views of the practical nature of government employment. These concepts have

[42] Leonard White describes the implications of the British Whitley Council system for syndicalist theory in the final chapter of his *Whitley Councils in the British Civil Service.*

[43] John M. Gaus, in *The Frontiers of Public Administration,* p. 40.

[44] Mosher and Kingsley, *Public Personnel Administration,* p. 510.

strongly colored the attitude of public officers to employee relations problems, and to a lesser degree continue to do so.

Arguments from the Facts of Government Employment

Neutrality of Public Functions

The concept of the impartiality of government is related to the theory that the sovereign state must command the unquestioning obedience of its employees. The argument runs that in the political and economic conflicts which divide the modern State with increasing sharpness, the State must rely upon the absolute neutrality of its permanent staff. After pointing out that the permanent bureaucracy is no phenomenon of public as against private management, Friedrich and Cole thus distinguish the two: "It is the essence of *governmental* bureaucracy to be *neutral* with regard to the interests and opinions which divide the community. This is not to say that every or even any bureaucrat is in fact neutral, but it is their tendency to be that. Naturally, public services are composed of human beings with opinions and prejudices of their own (although some writers have at times forgot that), yet the neutrality of the whole remains of central significance."[45] Once this confidence were lost, the government would no longer be responsible to the whole people, and democracy would be threatened. In their reaction, the people might well turn toward some spoils system by which efficiency would give way to political control of the entire administrative hierarchy.

The concept of neutrality enters employee relations to the extent that employee organizations are regarded as identifying the staff with the labor movement, a special interest group in the nation as a whole. Most of the concrete problems grow out of the governmental functions in the area of industrial relations.

In private employment the state assumes the role of impartial arbiter, the law being its declaration of the respective rights of

[45] Friedrich and Cole, *Responsible Bureaucracy*, p. 14. The whole of this study is related to the problem of maintaining the responsiveness of the administrative hierarchy to the public without vitiating the initiative of its staff. See also the elaboration of this point by Finer in *The British Civil Service*, pp. 195–98.

employers and employees and the instrument by which it seeks to maintain the balance between them. In public employment, the state is the employer, and the law, made by the state, defines its relations to its workers. It is, in fact, the very doctrine of the impartiality of the state in relation to all groups and classes in its domain which lies at the bottom of its insistence upon special rights as an employer.[46]

Proponents of employee organization frequently discuss the probable neutrality of a unionized police force during a strike of unionized workers. Actually, the unionized police force is a sort of straw man. A more realistic question is the extent to which a unionized or, on the other hand, a non-union staff of the National Labor Relations Board or any other public body refereeing employer-employee relations would fail to render impartial justice in dealing with a strike of industrial workers. Stated in these terms the problem of government impartiality is peculiar to a very small segment of the public service.

An interesting special case of this general problem is the whole question of academic freedom to which attention has recently been drawn in various public institutions, particularly in universities. The organization of school and college faculties in unions may imply an identification with the class thinking of the labor group or emancipation from the conservative regime of trustees and regents, according to one's economic viewpoint. The importance of this question is measured by the fact that employees of public school systems make up considerably more than a quarter of all public personnel. It must be dismissed here, however, with a reference to the excellent treatment which is available elsewhere.[47]

The Government as a Benevolent Employer

Some writers, and doubtless many more administrators, have based their attitude toward employee rights upon the assumption that the government offers unusual advantages to its personnel which obviate the purpose served by unions in private

[46] Spero, "Employer and Employee in the Public Service," in *Problems of the American Public Service*, p. 171.
[47] Tead, *New Adventures in Democracy*, chapter I.

industry. While they would not hold that any contract exists between the government and its workers, they nevertheless believe that the special consideration shown for its staff makes it only fair for the government to exact concessions in return. The Baltimore publication *Your Tax Dollar* concludes its arguments against agreement by the city administration to the unionization of city employees in these words:[48]

> With all these existing safeguards, protections, and advantages to the Baltimore City employees and with the clear-cut provisions that the people have laid down in the City Charter, there obviously is no useful service to be performed for the municipal employee group, the City taxpayers, or for the City Government by the unionization proposal.

Relative Attractiveness of Public Employment. It is by no means clear, however, that the public employee has, on the whole, better conditions of work than his counterpart in private establishments. Such a comparison would involve not only relative wage rates but also the complex factors of security, prestige, possibility of advancement, satisfying quality of assignments, working schedules, occupational hazards, working environment, indirect compensation through leave and retirement benefits, and perhaps additional considerations.[49] A substantive answer is far beyond the scope of this study. The most likely guess is that government employment has shortcomings in certain areas which are compensated for by advantages in others. Slowness of advancement, uncompensated overtime, and the low ceiling for salaries of high officials have been cited to the discredit of government service, while in respect of security of tenure, liberal vacations, more challenging programs of work, and in some instances higher pay at the lower levels, public employment offers greater attractions.[50] Even as to these few criteria, it is apparent that what is true for certain branches of the public service by no means applies to all. It is unlikely,

[48] *Your Tax Dollar,* March 23, 1938, p. 4.

[49] *Report of the Congressional Joint Commission on Reclassification of Salaries* (H. Doc. 686), March 12, 1920, chapter IV, pp. 88–107.

[50] See comparisons in Carol Agger, "The Government and Its Employees," *Yale Law Journal,* May 1938; Finer, *The British Civil Service,* pp. 168–69; Kingsley, "Some Aspects of the American Public Service," *Public Administration* April 1938, p. 196; and *Proceedings,* Civil Service Assembly, 1937, p. 50.

in fact, that any net result could be obtained, for where many factors are balanced, the employee's subjective judgment of their weight must also be considered, and it is to give voice to this judgment that unions are created.

Indeed, the unions are quick to point to their responsibility for early liberalization of working conditions in government service. Their efforts frequently paralleled those of the general labor movement.[51]

There is no evidence, in the federal service at least, that the government accepts the role of model employer which has been ascribed to it.[52] Thorough consideration was given the theory by the Personnel Classification Board from 1928 to 1931. Herman Feldman summarized his findings for the Board and the Congress by the statement that rates of pay comparable to those of "progressive employers" may be justified on grounds of long-run economy, "but in the present situation the attempt to follow the policy [that the government should be a model employer] by conspicuously high wages will be regarded everywhere as premature."[53]

Non-profit Character of Public Service. In the absence of current comparative data, circumstantial evidence has been brought forward that, because the profit motive is not predominant in public services, the usual incentive to reduce wage levels or otherwise exploit the staff is not present. The corollary implied is that unions are less necessary. A librarian writes: "A union in the public library, a social force established not for profit but solely for free public service, is ill-considered and illogical."[54] But this distinction has failed in practice according to another observer.[55]

[51] Charles I. Stengle, "Objectives of an Employee Union—AFGE," *Personnel Administration,* March 1939, p. 5.

[52] Spero quotes a speech in which President Taft refers to government employees as a privileged class, in *Problems of the American Public Service,* p. 169.

[53] Feldman, *A Personnel Program for the Federal Civil Service,* pp. 53, 62. A Royal Commission advocated the same general principle for the British Civil Service: Leonard D. White, *Whitley Councils in the British Civil Service,* pp. 159, 162.

[54] Clarence E. Sherman, "The Unionization of the Professions as One Librarian Sees It," *Special Libraries,* February 1939, p. 41.

[55] Agger, "The Government and Its Employees," *Yale Law Journal,* May 1938, pp. 1109–10.

"The government employee is . . . often distinguished from his industrial counterpart on the tenuous ground that he is employed by an organization which is not run for profit. While this may be literally true, especially if "profit" is understood in a very narrow sense, the differentiation is both useless and unrealistic. As a practical matter, employees work not for the government as an abstraction but for and under the control of certain individuals, section chiefs, or division heads as the case may be. Strongly actuated by a desire for advancement or for the added personal prestige which results from outstanding division records, supervising government officials behave in much the same fashion as many less enlightened private employers."

In fact the president of a union which represents employees of service and charitable agencies, public and private, writes of his objective "to overcome the present discrimination against employees of non-profit agencies."[56]

Thus, while profit is lacking as a motive toward payroll economy, pressure to justify tax expenditures exerts a similar influence on the public employer. C. A. Dykstra indicates this fact in the following terms: "the business which we call public service can have but one incentive—that of service, and at cost."[57]

Identity of Interests of Employees and Officials. An argument only slightly related to the question of whether the benevolence of the government obviates the need of staff organization may most appropriately be touched on here. The view has sometimes been taken that the character of government functions prevents the division into workers and managers which is characteristic of private industry. All government employees are, according to this view, primarily officials and secondarily employees. "In the departmental service in Washington, and to a lesser extent in the field service, the Government employees' work is of such a nature that it is difficult to draw a line between supervisory and non-supervisory employees. Everybody, practically, is somebody's boss. This is a circumstance that results in an unusual type of personnel set-up and a special type of union-

[56] Lewis Merrill (United Office and Professional Workers of America, CIO) "The Voice of Organized Social Workers is Heard," *Social Work Today*, June 1939, p. 35.

[57] "In Defense of Government," *The Annals*, January 1937, p. 8.

ism."[58] The acquisition by governments of new industrial functions tends to wipe out this distinction, but, in any case, there seems to be a tendency toward organization of professional workers in associations which, though of modified form, are essentially bargaining instruments. The trend cuts across public and private employment.[59] It refutes the proposition that in a relatively unstratified service the ordinary opportunities and functions of employee organization may be dispensed with.

Evidence seems consequently to be lacking by either approach that the government has established any claim to unique status by characteristic solicitude for its employees.[60]

Urgency of Government Services

Aside from philosophical considerations, a distinction between public and private employment in regard to the employers' claim for authority has been made on the grounds of the vital nature of public services to the community. The argument is succinctly put by Herman Finer: "The State must maintain the continuous fulfilment of social expectations. And in proportion as these are vital to social existence, obedience to the State must be unconditional."[61] "It is held," he writes later, "by modern democracies like Australia and New Zealand as well as by absolute States."[62] A further analysis is supplied by Mosher and Kingsley in the following sentence: "The functions performed by the State differ generally from those executed by private interests in at least two respects: (1) their performance is usually monopolistic, and (2) they are of a generally basic and urgent character."[63] From this it may be inferred that government services are on the whole unusually difficult to replace in case of stoppage, and cannot be delayed without social derangement.

[58] Presley W. Melton, "Employee Relations in Federal Service," *Personnel Journal*, September 1938, p. 98.
[59] Tead, *New Adventures in Democracy*, Chapter XVI.
[60] See Mosher's strong conclusion in "Implications of an Enlightened Personnel Policy," *The Library Journal*, November 15, 1937, p. 850.
[61] *The British Civil Service*, p. 206.
[62] *Ibid.*, p. 210.
[63] *Public Personnel Administration*, p. 510.

Spero has several times written in disagreement with these generalizations. His statement before the 1937 meeting of the Civil Service Assembly is quoted here.[64]

> How much of the civil service after all is concerned with sovereign processes or questions of public authority? The functions of the civil service fall roughly into four main categories: (1) administrative; (2) industrial; (3) service; (4) authoritarian. Only in the case of the last does the issue of public authority enter at all, and this category includes but a small fraction of all those who work for the state. The rest of the service is engaged in activities similar to those of private organizations. The administrative activities are similar to those which any concern or institution must carry on in order to keep its plant going and keep tab on itself. The industrial functions of government include the operation of plants for the manufacture of supplies and equipment and they supplement or compete with private industry. The state's service functions, the conduct of education, welfare institutions, public utilities and so forth are likewise similar to work of private organizations. . . . While it is true that the question of public authority does enter where the state's authoritarian functions such as police and public inspection and law enforcement are concerned, even here the processes by which this authority operates are themselves dependent upon the smooth functioning of the whole social machine. You could not police New York or Chicago at night if the private lighting employees did not keep the lights on. You could not enforce the law and maintain public order in modern society if the privately owned communications and transportation systems did not continue to operate. You cannot guarantee the continuous functioning of the authoritarian functions of the state merely by forbidding police and law officers to strike. You would have to bar the strike in industry as well. But who would seriously propose that in a democratic state?

An intermediate position is taken by Stanley B. Mathewson, who in a recent article tries with only fair success to define the particular group of employees whose services are vital to the nation.[65]

> We can contemplate with equanimity a strike of all the workers at a state agricultural experiment station, but we can look with no

[64] *Proceedings*, pp. 66–67.
[65] "Labor, Management, and the Public," *Survey Graphic*, July 1937, p. 391.

such calm upon a walk-out of state prison guards. Perhaps we may say that the uniformed employees of government are different from the non-uniformed. That does not seem to help much when we remember that postmen, liquor store employees, street sweepers, and other government employees already often wear uniforms while on duty. Civil service status is just as inadequate as a line of demarcation for those government employees who may be said to have all the rights of organized laborers as against those who are limited, in the interests of the public welfare, in the full exercise of their rights as organized workers.

The attempt to make a distinction among public services as to their urgency is not a recent development. Herman Finer quotes the following speech before the French Senate:[66]

> It is necessary to distinguish among the different enterprises those which constitute public services properly so-called, affecting the general order and even the security of the country, from those which involve nothing other than a question of finance. . . . It is only there that the very principle of nation-hood is at stake, that the right of demanding exceptional protection for it appears to be incontestable.

The former category was held to include "services of such importance that they had been exempted in the law on the recruitment of the Army (1889) from immediate mobilization." Since they included the "post and telegraphs" these services would comprise a substantial part of the public payroll. But in the United States especially, similar vital services have been developed in private hands, so that it becomes more difficult to justify any special claim for obedience on the part of the government.[67] A clearer statement is given by Mosher and Kingsley: "In the case of private services there is ordinarily an alternative source of supply. Where there is none, and the services involved are essential, the private industry in time becomes 'affected with a public interest' and is then differentiated from other private industries."[68] Finer is apparently in agreement in a later passage.[69] There is undoubtedly a special

[66] *The Theory and Practice of Modern Government*, p. 1407.
[67] Agger, "The Government and Its Employees," *Yale Law Journal*, May 1938, p. 1130.
[68] *Public Personnel Administration*, p. 510.
[69] *Theory and Practice of Modern Government*, p. 1419.

need, then, in the case of socially vital functions, public and private, to protect them from suspension. The form which such safeguards may best take, in the opinion of the students of public administration and on the basis of available experience, will be a subject for discussion in the following chapter.

It seems apparent that there is nothing inherent in the character of government employment that dictates the type of employee relationships it must promote. There are, on the other hand, several important characteristics of government employment to which successful policies should be adapted; they seem to offer unique opportunities as well as to necessitate restrictions upon the government's dealings with its staff. We shall undertake to review current thought and experience on this subject after describing the current legal boundaries within which policies must be developed.

Legal Boundaries of Employee Relations in the Public Service

In their study of *Personnel Administration in the Federal Service* for the President's Committee on Administrative Management, Reeves and David state that "the description of existing federal personnel legislation as 'a patchwork with many large holes' is perhaps well taken."[70] How much more appropriately the characterization applies in local governments is suggested by the small proportion of such jurisdictions which have general merit system laws.[71]

Exemption from Labor Legislation Affecting Private Industry

Governments are, of course, exempt from the very large body of law and legal precedent which affects the labor relations of private employers. The sweeping effect of the National Labor Relations Act[72] is too well known to require elaboration. The

[70] (Washington: Government Printing Office, 1937), p. 11.

[71] Sixteen states and 173 out of the nation's 3,053 counties are under general merit system laws. Civil Service Assembly, *Civil Service Agencies in the United States, a 1940 Census*, pp. 17, 19.

[72] 48 Stat. 449.

Act specifically excludes relations in public employment by the following definition: "The term 'employer' . . . shall not include the United States, or any state or political subdivision thereof."[73] The other important act of general effect in private industry is the Norris-LaGuardia Anti-Injunction Act, approved in 1932.[74] Its provision that no employment contract is enforceable in federal courts by which either party agrees to withdraw from or not to join a labor organization[75] is noteworthy inasmuch as we shall find such agreements effective in local government jurisdictions. The National Railway Labor Act[76] is of particular interest for purposes of analogy since it represents a well developed procedure to promote and maintain agreements between organized workers and employers in an industry[77] which is affected to an unusual degree with a public interest. This act is the product of a long history of mediation.[78]

The example of the National Labor Relations Act was followed by five states in 1937, and a sixth in 1939, so that on May 1, 1939, Massachusetts, New York, Pennsylvania, Utah, Wisconsin, and Minnesota had state labor relations acts.[79] These acts specifically excluded employees of states and their subdivisions.[80] Many businesses analogous to government services as regards monopoly and social necessity fall within the jurisdiction of these state acts—local public utilities and intrastate transportation services, for example.[81] Amendments to some of these laws were enacted in 1939 but without lifting the exemption of state and local government employees. On the other hand, the Michigan Labor Mediation Act of 1939 provides a special procedure for a "public utility, hospital, or any other industry affected

[73] Sec. 2 (2).
[74] 47 Stat. 70.
[75] Sec. 3.
[76] The Railway Labor Act of May 20, 1926, was amended in 1934 and again in 1936.
[77] See the full statement of purpose in Sec. 2 of the Act.
[78] National Mediation Board, *First Annual Report*, 1935, pp. 59–65.
[79] *The Book of the States, 1939–40* (Chicago: Council of State Governments), p. 65.
[80] *Monthly Labor Review*, February 1939, p. 309.
[81] A. G. Taylor, *Labor Problems and Labor Law* (New York: Prentice Hall, 1938), p. 593.

with a public interest." There must be a thirty-day notice before a strike or lockout in such an enterprise, whereas the ordinary waiting period is five days. The language of the act contains no exemption of public employees.[82]

In addition there is a large and diverse body of labor legislation, both state and national, which affects the substance (as against the form) of labor relations in industry and from which government employees are excluded. Some of these laws have their counterparts in government, at least in the federal service; this is true of workmen's compensation and to some extent of old age insurance under the Social Security Act. However, comparable retirement systems have been estimated to cover only a third of all public employees.[83] Neither unemployment insurance nor minimum wage legislation has been extended to federal employees,[84] and it is unlikely that state legislation offers a better prospect. The general situation is one in which labor legislation affecting private industry has made rapid progress, but public employees have been excluded, for the most part, from the advances of recent years.

Positive Statutes: Federal Law

The primary statute affecting federal employee relationships is the Lloyd-LaFollette Act of 1912. It is quoted here in full:

That no person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of any charges preferred against him, and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing and affidavits in support thereof; but no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal; and copies of charges, notice of hearing, answer, reasons for removal, and of the order of removal shall be made a part of the records of

[82] Public Acts of 1939, No. 176.
[83] Harvey Walker, "Employee Associations in the Public Service," *Proceedings*, Civil Service Assembly, 1937, p. 51.
[84] Agger, "The Government and Its Employees," *Yale Law Journal*, May 1938, p. 1120.

the proper department or office, as shall also the reasons for reduction in rank or compensation; and copies of the same shall be furnished to the person affected upon request, and the Civil Service Commission also shall, upon request, be furnished copies of the same: *Provided, however,* That membership in any society, association, club, or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its objects among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said Postal Service, or the presenting by any such person or groups of persons of any grievance and grievances to the Congress or any Member thereof, shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service. The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information to either House of Congress, or to any committee or Member thereof, shall not be denied or interfered with. (37 Stat. 555, August 24, 1912.)

The second half of this Act, particularly, must be interpreted in the light of its history. It was designed to supplant the "gag rule" in the postal service, and "to stop the attempts of postal officials to destroy trade unionism among their employees." The clause prohibiting interference with employee organization was apparently aimed at the postal service because it was there that abuses were current. Its application to all civil employees of the federal government has not been questioned in the courts and is accepted by administrators.[85]

The Act has been interpreted as denying the privilege of membership in organizations which propose to strike against the government. It is possible to infer that this was the intent of Congress, but the Act merely protects membership in organizations which do not strike. In 1919 the Senate added a rider to the District of Columbia police pay bill which banned affiliation of an organization of government employees with "any outside organization which uses the strike," although a few days later, after the protests of employee groups had been

[85] Johnson, "Unionism in the Federal Service," p. 34.

heard, the clause was dropped from the bill.[86] It is interesting to note that some postal employees (such as printers or mechanics) have belonged to craft unions which engaged in strikes, and did not, explicitly at least, renounce the weapon of strikes against the United States. Spero finds no instance where the legality of such membership has been questioned.[87] The immediate effect of the Lloyd-LaFollette Act was to stimulate organization of federal employees, and to encourage affiliation with the American Federation of Labor.[88]

In addition to this single statute affecting the form of relations between public agencies and their employees, there is a large body of law which specifies the conditions of employment, and thereby removes important policies from the area of employer-employee negotiation. The Civil Service Act of 1883 is, in itself, sufficiently general to leave the issues of primary interest to employees within the discretion of the President and the Civil Service Commission.[89] The Classification Act of 1923 with its amendments, on the other hand, sets forth detailed salary schedules and indicates the grades of positions within specified services to which they apply.[90] The Civil Service Retirement Act of 1920 provides not only the schedules of benefits and contributions, but the policies for determining applicability of the benefits to individual employees.[91] Statutes of more general character provide for uniform systems of efficiency rating,[92] annual and sick leave[93] and hours of work.[94] Special laws apply to conditions of employment in the Customs Service, Postal Service, and Veterans' Administration.[95]

[86] Spero, *The Labor Movement in a Government Industry*, pp. 226–27.

[87] Spero, "Employer and Employee in the Public Service," in *Problems of the American Public Service*, p. 180.

[88] Spero, *The Labor Movement in a Government Industry*, p. 229.

[89] Act of January 16, 1883, 22 Stat. 403. The Act stipulates no policies of promotion, compensation, hours of work, or removal from the service.

[90] 42 Stat. 1488; 43 Stat. 669; "Welch Act," 45 Stat. 776; "Brookhart Act," 46 Stat. 1003. The recent Mead-Ramspeck law defines the conditions under which salaries may be increased within grade: Public No. 200, 77th Cong., 1st sess.

[91] 5 United States Code, 691 *et seq.*

[92] 37 Stat. 413, August 23, 1912, and Classification Act of 1923.

[93] 49 Stat. 1161–62.

[94] 30 Stat. 316, 46 Stat. 1482, and 48 Stat. 509.

[95] For a compilation of these laws see Elmer A. Lewis, *Civil Service Preference, Retirement, and Salary Classification Laws* (Washington: Government Printing Office, 1937).

Legislation restricting the political activities of government employees is of particular interest because of its bearing upon the theory that as citizens public employees have a share in determining their conditions of employment. As we have seen, it has been argued that this right obviates the need for internal channels of employee representation. Actually, all federal employees and employees of local governments paid from federal funds are forbidden to take "any active part in political management or in political campaigns." In this regard, the "Hatch Laws" of 1939 and 1940 extend the earlier restrictions of the Civil Service Act both as to scope and severity of penalty.[96] The Civil Service Commission is made responsible for interpreting these restrictions as they apply to all employees who are covered by the laws.[97]

An earlier but relevant interpretation of these restrictions by the Civil Service Commission has specific significance to employee organization. It is expressed in the following terms: "It is clear that what an employee may not lawfully do independently he may not lawfully do in open or secret cooperation with others"[98] "and the Commission accordingly holds that it is contrary to the civil service rules prohibiting political activity for any organization of classified federal employees to issue letters or statements with the direct or implied suggestion that the federal employees vote or work for the return to office of those legislators whose records are regarded as favorable in matters primarily or solely concerning federal employees."[99] It is especially significant that the occasion for this statement was the issuance by an employee association of a circular letter informing its membership, without comment, of the record of Congressmen with reference to a minimum wage bill.[100]

[96] 53 Stat. 1147 as amended by Public No. 753, 76th Cong., 3d sess.

[97] The interpretations of the Commission are summarized in its Form 1236, "Political Activity and Political Assessments of Federal Officeholders and Employees," September 1939.

[98] Letter to Editor, *The Federal Employee,* August 18, 1920, published in the *Thirty-Seventh Report of the United States Civil Service Commission,* 1919–20, p. 105.

[99] *Annual Report of the United States Civil Service Commission, 1932,* p. 32.

[100] The Commission did not attempt to enforce its ruling, according to the President of the National Federation of Federal Employees.

Positive Statutes: State and Local Law

There is no complete resume of legislation regarding employee relations in states and municipalities. William C. Beyer, however, made this summary of municipal law in 1935:[101]

In considering the rights of municipal employees in their relation with their government employers, we may inquire first whether municipal employees are permitted to form organizations for their mutual protection and advancement. There probably is no legal prohibition in any city upon their forming such organizations, though their freedom to do so is frequently limited by hostility on the part of the higher city officials to any association of municipal employees that even remotely resembles a labor union. . . . .

The right of municipal employees to lobby for legislation in their own interest is not so clear. In some jurisdictions lobbying is cause for dismissal. The civil service rules of St. Paul, for example, provide that an officer or employees in the classified service of the city may be removed if "he has solicited the vote of a member of the City Council for or against a proposed ordinance or resolution, or a proposed item in the budget, or an appropriation ordinance concerning his department, where such solicitation is charged and established to have been made elsewhere than at a public hearing of the City Council or of some committee thereof." Such a rule, to be sure, would not affect an officer of an association who is paid by the association and is not himself a municipal employee; but it would restrain all spokesmen of the association who are in the classified service of the city.

Following the Boston police strike of 1919, special restrictions were enforced to limit the affiliation of policemen and prohibit strikes. Most of these were made effective purely by the executive power of removal.[102] Together with other laws and practices affecting the right to strike, they will be taken up in the following chapter. However, "the courts in a number of instances have upheld the legality of dismissals for union membership as a proper exercise of discretion on the part of

[101] William C. Beyer, "Citizenship in the Municipal Service," in *Problems of the American Public Service,* pp. 150, 152.

[102] Spero, "Employer and Employee in the Public Service," in *Problems of the American Public Service,* p. 180.

the employing officers."[103] Because of their limited application and early date, these decisions are not cited here. They are significant, however, in their contrast to the doctrine of the National Labor Relations Act. For example, the Texas Supreme Court ruled in 1920 that the Dallas Board of Commissioners would not be restrained by courts from discharging firemen belonging to unions even though statutory tenure is provided "during good behavior." Union membership, the court found, may be reasonably deemed by the board to violate that good behavior.[104]

We have found nothing, therefore, to contradict the following conclusion by Leonard D. White: "The law with respect to public service unions indicates that the state assumes a different position in handling its employment problems from that which it imposes upon private employers. . . . In the industrial world there is full freedom of organization and affiliation, but in government employment these rights are recognized only in certain jurisdictions and even there are forbidden to certain classes."[105] But prohibitions of collective dealing are little more general in the public service than are safeguards of it. William C. Beyer and Sterling D. Spero agree that the administrator generally fails to use the statutory latitude afforded him for organized relations with his subordinates.[106]

The evidence is, from scattered information upon state and municipal legislation and from the statutes governing even the federal service, that administrators may choose from a variety of basic policies in their dealings with employees. They are not required by law to deal collectively, and the form of individual or organized relationships is seldom treated, although there are many statutes which define the substance of working conditions in the public service and do to that extent restrict the area of administrative discretion in dealing with problems of concern to employees. It will be recalled that there are like-

[103] *Ibid.*, p. 181.
[104] *McNatt* v. *Lowther*, 223 S.W. 503 (1920).
[105] *Introduction to the Study of Public Administration*, pp. 440–41.
[106] *Problems of the American Public Service*, pp. 150, 180.

wise no political theories free of serious doubt which dictate the type of employee relationship policies which an administrator of a public agency should promote. The field is open, therefore, to the consideration of the various aspects of these policies directly from the standpoint of effective management. This approach is taken in the following chapter.

Chapter IV

Policies Regarding Employee Organization

THE TWO preceding chapters have led to the generalization that the major policies of employee relations are, to a large extent, in the hands of the public administrator. Neither political theory nor law defines the course which public employers must follow in order to tap the potential energy of constructive relations with employees. At most, they set wide boundaries. It may be urged practically that it is the responsibility of public executives, and specifically of their civil service commissions or personnel officers, to discover the approach to employees as a group which will contribute most to the objectives of the agency. By the same token there is room for employee initiative in proposing schemes of relationship designed to achieve mutually beneficial objectives not inconsistent with the public interest in its public services.

Individual and Organized Relationships

It is an unfair labor practice for an employer within the jurisdiction of the National Labor Relations Act "to refuse to bargain collectively with the representatives of his employees. . . ."[1] No such restriction exists upon the government administrator in his employee relationships. His discretion clearly extends to the choice of individual or collective methods of dealing with employees, and this is logically the first question which he must face. To define the problem as one of individual versus organized relationships, however, is to oversimplify. There are at least four broad policies open to the administrator:

1. Relations with individual employees alone, accompanied by opposition to union organization.

[1] 49 Stat. 372 Sec. 8 (5).

2. Administrative establishment of employee representation plans under official supervision.

3. Impartial relations with individual employees or union representatives indiscriminately.

4. Dealing with employees where feasible through organizations independent of management, possibly leading to recognition of an agent chosen by a majority of employees as representing the entire group.

A fifth relationship, the maintenance of a "closed shop," which might be regarded as a logical part of this series, is discussed in the succeeding chapter because it is closely connected with the problem of written agreements between government agencies and their employees.

Individual Relations

The account given by Sterling D. Spero of the U. S. Post Office Department, under Postmaster General Burleson, illustrates the first policy. In his report for the fiscal year 1917 Burleson wrote concerning postal organizations other than those seeking social and mutual welfare: "The conduct of these organizations at this time is incompatible with the principles of civil service and with good administration of the Postal Service. They are fast becoming a menace to public welfare and should no longer be tolerated or condoned."[2] Spero describes the successive dismissals of two union presidents and a secretary-treasurer in conformity with this attitude.[3] When employee representatives appeared in Washington requesting that they "be granted an audience by the Postmaster General for the purpose of offering timely suggestions intended to promote service betterments or to submit and explain their petitions for redress of grievances . . . Mr. Burleson refused to deal with the workers save as individuals."[4] It is significant that Burleson's

[2] Spero, *The Labor Movement in a Government Industry*, p. 220.

[3] *Ibid.*, pp. 216, 217, 219.

[4] *Ibid.*, p. 222. For a recent parallel see General Johnson's insistence upon talking to a union representative "as an employee," *Decisions of the National Labor Relations Board* (old Board), July 9, 1934–December 1934, p. 27. The Board did not find that this incident represented a policy on General Johnson's part.

program proceeded without apparent legal check under the Lloyd-LaFollette Act of 1912.

To what extent is the policy of dealing solely with individual employees prevalent today? Floyd W. Reeves and Paul T. David wrote of the federal service that in pursuit of their activities "the employee organizations frequently appear to encounter the passive, if not the active, opposition of administrative officials."[5] But this opposition has not necessarily been identified with departmental policy.

There is more explicit evidence of the policy of dealing only with individual employees on the part of local government units. William C. Beyer has written of "hostility on the part of the higher city officials to any association of municipal employees that even remotely resembles a labor union."[6] Two cases of the individual type of approach to employee relations were found in the Civil Service Assembly Survey. The city of Berkeley, California, makes the following provision in its *Manual of Administrative Practice:*[7]

> No official or employee may accept any club or association membership or committee assignment which in any manner conflicts with his public employment or which might align him against the authority or policies of the city government.

In Salt Lake City "the rules and regulations of the Civil Service Commission provide that no member of the Fire and Police Departments may have membership or affiliation with any organization or society whose purpose shall be directly or indirectly to seek to interfere with or challenge the discipline or conduct of members of the departments or the authority of the officers over the departments."[8] A 1937 report from the city of Baltimore, Maryland, indicated that "there is at present

[5] *Personnel Administration in the Federal Service,* p. 54. Two other observers report that federal administrators have disciplined employees for organization activity "not only in past years, but during this Administration": Sterling D. Spero and Samuel P. Puner, "Uncle Sam, Privileged Boss," *Nation,* January 8, 1938, p. 42.

[6] "Citizenship in the Municipal Service," in *Problems of the American Public Service,* p. 150. See also Spero, "Employer and Employee in the Public Service," *ibid.,* p. 180.

[7] Civil Service Assembly Survey, Berkeley, p. 97.

[8] Civil Service Assembly Survey, Salt Lake City, p. 129.

a rule of the City Service Commission which has been in effect for many years, which prohibits municipal employees from establishing a union without the approval of the head or heads of a department or departments involved, or city service commission."[9]

A clear statement of the policy of a state government was issued in 1937 by Governor Charles H. Martin of Oregon:[10]

> The state cannot and will not enter into bargaining with labor union organizations or their representatives regarding state employees . . . the only privilege accorded state employees in joining a union organization will be that of paying dues and enjoying fraternal satisfaction.

It must be fairly clear that where unions are opposed it does not necessarily imply that individual employees are precluded from advancing grievances or complaints to supervisors. The usual basis for opposition to unions rests on the assumption that individuals are free to better their conditions in individual presentations, if they can.

The first question which occurs in regard to the principle of strictly individual relationships is whether it can be made to function permanently. Experience seems to show this relation may in time become self-defeating. The best documented experience, that of the postal service prior to 1921, indicates that repressive policies resulted in (1) growth of unions in all parts of the service, (2) adoption of increasingly independent policies by the unions in relation to the authorities, and (3) successful resort to legislative redress against what the unions regarded as administrative repression.[11] David Ziskind's exhaustive study of strikes in public employment[12] leads him to conclude:

> Despite occasional opposition, government workers have organized and have established vested interests in their organizations. Continued resistance to unionization can result only in strikes and the ultimate recognition of the unions.

[9] New York State Bureau of Municipal Information, "Unionization of Municipal Employees" (Report No. 1826, 1937, mimeographed), p. 3.
[10] Washington, D.C., *News*, May 14, 1937.
[11] Spero, *The Labor Movement in a Government Industry*, pp. 137, 181, 229.
[12] *One Thousand Strikes of Government Employees*, p. 195.

The Lloyd-LaFollette Act's recognition of the right of organization was the first major result of this employee reaction to the anti-union program of the Post Office Department. The passage of this law undoubtedly decreases the practicability of programs of purely individual dealing in the federal service. The growing strength of the general labor movement in many localities would seem to make it increasingly difficult to maintain such a policy in states, counties, or cities. It may consequently be realistic in this era of widely accepted collective bargaining to extend to local government units the conclusion Feldman reached in 1931 concerning the federal service:[13]

> The issue in the Federal service is not whether group action by employees shall be permitted. Since employees are at the same time citizens, it is impossible to prevent group action. Already such groups have been able to put their case before Congress and to secure special legislation. The practical alternative presented to the Government service is whether unions and other groups of employees shall be regarded as an instrument of helpful cooperation with executives in a common service to the public, or shall be relegated to ordinary bargaining agencies, engaged in lobbying for their own personal interests in Congress.

In government employment a very real disadvantage of the method of individual dealing is that, in effect, it encourages resort to political influence on the part of the employee who feels his claim has not been fairly heard. This danger is pointed out by practically all observers of the federal service. Mayers' solution would be to prohibit by law such intervention on the part of legislative officers. Such a law would hardly be capable of enactment or enforcement; even if it were, it would tend to impair morale unless some form of representation were provided them within the administrative hierarchy.[14]

Employee Representation under Management Supervision

The second type of policy takes account of the interest of employees in personnel administration by seeking their views through a representation system instituted by management.

[13] *A Personnel Program for the Federal Civil Service*, p. 226.

[14] *Ibid.*, pp. 222–23; also Mayers, *The Federal Service*, pp. 144–51; Meriam, *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 230.

Such a system is defined by Meriam as "a formal, organized, more or less permanent structure which partakes somewhat of the nature of the so-called company union."[15]

The most extensive plan of employee representation sponsored by administrative officials in the federal service has been the program of the Service Relations Division of the Post Office Department begun in 1921 under Postmaster Hays. The structure of the National Welfare Council (now Service Council) has been briefly described. It represented employees only through their organizations, and to that extent more nearly resembled the Whitley Departmental Council than the employee representation plan as defined in American industrial terminology. However, the local (city and county) service councils represented "the various functional groups of employees without regard to organization."[16] The constructive achievements which Mosher and Kingsley list for the local and national councils are, as they say, impressive, but they include no gains for the staff of the magnitude attained in the legislative and bargaining programs of the unions we have described. Better physical conditions of work, campaigns to improve addressing and wrapping of mail on the part of the public, and the establishment of credit unions in post offices are typical accomplishments of the service councils.[17]

Judgments of the ultimate success of the plan vary. Johnson and Spero[18] consider it inadequate: "The postal experiment in employee representation illustrates the weakness of half measures," the former writes.[19] Together with Herman Feldman,[20] Mosher and Kingsley make a more favorable evaluation. However, they observe that "with the strengthening of the postal unions in recent years . . . the councils have suffered a further loss in prestige and importance."

[15] *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 261.
[16] Mosher and Kingsley, *Public Personnel Administration*, p. 489.
[17] *Ibid.*, p. 490.
[18] *The Labor Movement in a Government Industry*, p. 250 ff. Spero lists a group of articles on the service relations programs on p. 251.
[19] "Unionism in the Federal Service," p. 274.
[20] *A Personnel Program for the Federal Civil Service*, p. 232.

Taking the less critical view of employee representation in the postal service, Herman Feldman analyzed its likelihood of success in other departments. He found that the homogeneity of work in the postal service, the fact that the Post Office Department is treated separately for legislative purposes, the relatively large and concentrated staff in each field center, and the stratification of the postal service into fairly definite subordinate and supervisory levels are all favorable factors unique to the Post Office Department. "Employee representation is inapplicable to a large number of units," Feldman concludes, "and . . . should be experimentally and carefully introduced into those places where it gives greatest promise of success."[21] The fact must not be overlooked that many of the achievements of the service relations program are the fruit of earlier agitation by the employee unions[22] and that the service councils do not "supplant the unions, since well established organizations of the various grades of postal employees now perform certain functions . . . in their dealings with Congress and the department."[23] Lewis Meriam shares these doubts concerning the suitability of employee representation plans for government personnel. He wrote that an employee representation plan "which may be living and vital in private enterprise, because it deals with real issues and decisions, may be stiff and wooden in the public service, because it there deals with minor matters."[24]

The limited acceptance and trial of this approach to employee relations in government agencies confirms the skepticism of these authors. The Rock Island Arsenal of the War Department had the only prominent plan for employee representation outside the postal service. Mayers wrote in 1922 that it "had the happiest results" in its first three years of operation,[25] but two years later Spero reports that it had "since become ineffective."[26] It is noteworthy that here, again, the representation plan was

[21] *Ibid.*, p. 234.
[22] Spero, *The Labor Movement in a Government Industry*, p. 253.
[23] Feldman, *A Personnel Program for the Federal Civil Service*, pp. 230–31.
[24] *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 265.
[25] *The Federal Service*, p. 563.
[26] *The Labor Movement in a Government Industry*, p. 252.

developed in an industrial environment hardly typical of the public service. Similar conclusions may be drawn from the experience of the city-owned Independent Subway System in New York. In 1937 the city conducted an informal election among the 5,000 employees to select a general grievance committee. Two affiliated unions (the Transport Workers' Union and the Amalgamated Association of Street and Electric Railway Employees) claimed that their candidates had obtained 51 of the 79 places on the committee. Four years later an observer reports that "Consultation, active for a while, tended to dwindle."[27] The representation scheme apparently had no effect on the subsequent involvement of the Independent Subway System in the conflict between the Transport Workers' Union and the city concerning collective bargaining on the entire city-owned subway system. The Civil Service Assembly Survey found no instance, in twenty-one other civil service jurisdictions, of employee representation under state, county, or municipal auspices. The indication is that such systems are as rare in local government units as in the federal service.[28]

Impartial Relations with Individuals and Unions

A third type of relationship, which is common in the dealings of government with its employees, accepts unions as representing their membership but not as speaking for any unorganized employee. The opinions of the latter group are also taken into account, and elicited if necessary, but without the establishment of a permanent representation plan. This factor is significant in view of the large body of public employees outside the unions. An excellent example is the approach used by the U. S. Department of Agriculture in securing staff participation in

[27] Arthur W. Macmahon, "The New York City Transit System: Public Ownership, Civil Service, and Collective Bargaining," *Political Science Quarterly*, June 1941, pp. 180–81.

[28] The principle of employee representation has made recent headway in the public libraries. The American Library Association (a professional association) resolved in 1937 "to promote the organization of new staff associations." Whether these are typically independent or developed under the auspices of the chief librarians is not clear; their objectives have apparently not yet crystallized. See Clara W. Herbert, *Personnel Administration in Public Libraries* (Chicago: American Library Association, 1939), especially pp. 115–16.

the drafting of a new personnel relations policy and procedure. The draft was submitted for comment not only to local and national representatives of the unions in the department, but to a representative sampling of individual employees of varied salaries and occupations.[29] If it is to be more than a formality, this policy entails coordination on the part of the personnel arm of management, which is otherwise the function either of an employee council under the aegis of management, or of a union or council of unions.

This relationship exists in the twenty-two governmental jurisdictions described in the Civil Service Assembly Survey. Civil service commissions in these agencies are described as impartial, both as between organizations and as between organized and individual employees. A formal expression of the principle of impartiality has been reported in Dayton, Ohio, where a union was recognized as bargaining agent for its members only.[30]

Positive Relations with Unions

In some agencies of government a preference is established for dealing with organizations independent of management influence on problems which concern the entire employee group. Individual contacts are, of course, maintained to adjust personal difficulties and to advise employees upon decisions which affect them as individuals.[31] Under this policy, representation upon joint management-employee councils is available to employees through their associations only. Those associations are held to represent all employees in the occupational or organizational units in which they are selected by a majority.

This aspect of the relation is of long standing in some jurisdictions. In 1920, for example, the National Federation of Federal Employees nominated "a member of the organization from each department to represent the employees on the central de-

[29] John J. Corson and Ilse M. Smith, "Federal Policies on Employee Relations," *Personnel Journal*, October 1939, p. 158.

[30] New York State Bureau of Municipal Information, "Unionization of Municipal Employees" (Report No. 1826, October 7, 1937, mimeographed), p. 4.

[31] The "open door policy" for such matters is recommended by A. J. Altmeyer, "The Scope of Departmental Personnel Activities," *The Annals*, January 1937, p. 190.

partmental cooperating committees" set up by the Joint Commission on Reclassification of Salaries.[32] As has been noted, the Bureau of Printing and Engraving has maintained contact with its employees for many years through a series of union committees.[33] In the British Whitley Councils, "The staff side representatives are selected on the responsibility of the staff associations, and since the foundation of the National Council four associations have held substantially the full membership."[34] Likewise, "arbitration by the [Industrial] Court will be open to Government departments on the one hand and to recognized Associations of Civil Servants . . . on the other."[35] The Railway Labor Act, under which the employee relations of American railroads have been stabilized since 1926, embodies this principle. Section 3 (a) provides that the National Railroad "Adjustment Board shall consist of 36 members, 18 of whom shall be selected by the carriers and 18 by . . . labor organizations of the employees, national in scope."[36] These instances are from services characterized by long established unions.

That a newly created agency may establish the same type of relationship largely outside the influence of these traditions is indicated by the experience of the Tennessee Valley Authority.[37] The initial formulation of the Authority's basic employee relationship policy in 1935 involved "suggestions and criticisms from a large number of employees, individually and through their duly authorized representatives."[38] However, as organization became stronger and more adequately representative of employees, joint activities of management and employees drew entirely upon the organized groups for employee spokesmen.[39]

[32] Mayers, *The Federal Service,* p. 574. This arrangement was apparently a tacit one. See the Commission's description of the election of employee representatives on p. 158 of its *Report.*

[33] Mosher and Kingsley, *Public Personnel Administration,* p. 491.

[34] White, "The British Civil Service," in *Civil Service Abroad,* p. 41.

[35] White, *The Civil Service in the Modern State,* p. 63.

[36] Public No. 442, 73d Cong. (1934).

[37] Civil Service Assembly Survey, Tennessee Valley Authority, p. 499.

[38] Tennessee Valley Authority Employee Relationship Policy, p. 3. This is similar to the method described for the Department of Agriculture.

[39] Gordon R. Clapp, "Principles of the Tennessee Valley Authority Employee Relationship Policy and their Application," *Proceedings,* Twenty-Ninth Annual Meeting of the Civil Service Assembly, 1937, p. 55.

This approach to employee relationships is not usual among public agencies. The field survey of the Civil Service Assembly reported no instances of sole representation through any employee organizations. However, the New York State Bureau of Municipal Information reports that in Minneapolis a request by a union or unions for recognition as sole bargaining agency for municipal employees "has been granted," and that in Omaha "no objections [were] made by the city administration." In Pittsburgh and in Rochester, New York, it found that craft unions were granted exclusive recognition within their occupations although this policy was not extended to other employees.[40] The most extreme case in the municipal field is the city of Chicago, where, according to James D. Errant, "it is a general rule of the finance committee [of the City Council] not to grant a hearing to unorganized employees on salary policies." But Mr. Errant suggests that the rule actually expresses a politically determined partiality toward organizations affiliated with the labor movement rather than a recognition of the administrative value of organized representation by employees.[41]

General Advantages of Collective Relationships

Four approaches to employee organization have been described with brief attention to the difficulties involved in each. It remains to consider the general factors which have been interpreted by recent writers as pointing toward collective relationships. In this respect, the three avenues of contact with organized employees may be said to possess common advantages when compared with the policy of denying collective representation to the subordinate staff. These advantages flow from two developments which are now accepted as trends: the growing size of government services and the growth of organization among workers in private establishments with its impact upon government employees.

There is no need to document the statement that government at all levels is coming to involve large numbers of personnel em-

[40] "Unionization of Municipal Employees" (Report No. 1826), p. 4.
[41] "Trade Unionism in the Civil Service in Chicago" (complete thesis), p. 166.

ployed in complex administrative hierarchies. It also is widely agreed that this growth implies the obsolescence of individual dealing.

When organizations become large and official hierarchies long, the upper administrative officers cannot know personally all the employees or be familiar with conditions prevailing in all the various units. They become dependent for information primarily upon the reports coming up the hierarchy from their line officers. At times these reports may be unreliable, because they mis-state the facts, or more frequently, because they give only a part of the picture. Thus administrators who desire to be fully informed and to deal fairly with all their employees seek devices that will open up other avenues of information and give the subordinate employees an approach to the upper officers without proceeding along the regular administrative line. [42]

Yet the difficulty which the individual government employee faces in getting his desires before the *responsible* superior is heightened by the fact that only the legislature is in some matters authoritative. Here organization has been of especially great significance to the subordinate civil servant.

Strictly within the administrative units, employee organization has served to inform top officials of irregularities in the lower reaches of the hierarchy, irregularities which a normally efficient administrative process had not disclosed. Herman Feldman was particularly conscious of this special function of union representatives in reporting his survey of the entire federal personnel problem. Through their union representatives, he wrote: [43]

Employees in out-of-the way places, as well as those in Washington, have called attention to improper working conditions, excessive hours, undue speeding up, and other matters regarded as objectionable, and have in some cases been able to secure forceful presentation of their cases when they themselves would not have commanded respect. Union officers have in this way performed definite personnel functions.

The case study of a government whose staff is relatively small revealed the need for this external check upon the process of

[42] Meriam, *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 260.

[43] *A Personnel Program for the Federal Civil Service*, p. 225.

supervision. Even in this comparatively localized service, supervision had become a multiple compounded function. Thus Friedrich and Cole write of the Swiss civil service:[44]

> The absolute dependence of the individual civil servant upon his superiors has contributed, where it exists, to one of the most serious causes of dissatisfaction. The possibility of arbitrariness on the part of the superior is increased where individual complaints are likely to be "lost" in the long passage down the hierarchical ladder.

It is doubtless in the same sense that Ordway Tead has said: "The power prerogatives of individual administrators do have to be checked . . . and individual bargaining fails here."[45]

An additional reason why individual "bargaining" has been held inadequate is that it quite naturally creates antagonism between the aggrieved employee who must represent himself and the supervisor who is confronted with what he must regard as a mutinous subordinate. Discussing the merits of a national union, an observer of federal employment writes: "Its officers can frequently accomplish, without 'intemperate' action, what the employee and his friends . . . could secure only by making themselves unpleasant."[46]

Organization and representation in any context imply the sifting of the desires of individual members to arrive at uniform policy. This is the union's source of strength, but it may also be a positive asset to the administrator who is thereby relieved of a multitude of trivial complaints. Feldman regarded this function as an important contribution of the federal employee union:[47]

> In many . . . instances the unions have served as shock absorbers for the hurt feelings of employees who had misunderstandings of conditions, and who came with unjustified and, in some cases, absurd complaints. Union officers have in some instances been able to clear up such situations and to produce a better attitude toward the administrative officers concerned.

[44] *Responsible Bureaucracy*, p. 62.
[45] *Proceedings*, Thirtieth Annual Meeting of the Civil Service Assembly, 1938, p. 74.
[46] Howard C. Westwood, "The Right of an Employee of the United States Against Arbitrary Discharge," *George Washington Law Review*, December 1938, p. 318.
[47] *A Personnel Program for the Federal Civil Service*, p. 225.

The Civil Service Assembly Survey contains substantial evidence that unions make the same contribution on the level of local government.

In the day-by-day work in the public service there are many individual complaints which raise questions of personnel policy. The specific practices by which these may be settled are discussed in a later section. But it is clear in advance that these instances demand a broader expression of employee interests than it is possible for individual subordinates to convey:[48]

> There are certain types of grievances involving issues which can be settled only through a change in policies or methods affecting a substantial group of employees. In such matters as the adjustment of wages to take care of an increase in the cost of living, the classification of positions in order to secure equal pay for equal work, the establishment of a proper pension plan, and similar measures of service-wide scope, no individual can expect to have enough influence. Organized action appears necessary.

Especially pertinent in this area of personnel management is a sentence quoted from Dr. W. W. Stockberger, long time Director of Personnel and now Special Adviser to the Secretary of the Department of Agriculture: "Without coordination and centralized direction of effort, individual small groups will likely find themselves at cross purposes with each other even when working for the same object."[49]

Finally, the vastness of the contemporary public service has its effect on the bases of popular opinion regarding the government. The administrator who is concerned about public relations has now to consider not only the effect of individual contacts between his subordinates and the citizenry; he has also to take into account the general assaults which organized external interests may make upon his functions. Feldman again furnishes testimony in this regard:[50]

> No individual can do anything substantial in defense against unjust or demagogic attacks on Federal employees, such as occurred particularly during the war. Misrepresentations of this character

[48] *Ibid.*, pp. 223–24.
[49] Quoted by Johnson, "Unionism in the Federal Service," p. 124.
[50] *A Personnel Program for the Federal Civil Service*, p. 224.

create an attitude of mind in Congress and elsewhere unfavorable to the granting of proper remuneration and are dangerous in their offensive upon the conditions to the Federal workers.

A very recent writer on public relations drew the following conclusions:[51]

> Not only does the employee relationship policy affect the morale and efficiency of the employees themselves, but it also has a direct bearing upon public approval or disapproval of the employer. The pros and cons of unionization, collective bargaining, and employee representation need not be discussed in this article, but the fact remains that the public, as well as labor, has found a new interest in these problems . . . The employees should be brought into the public relations program as the active partners of administrative officials.

This point leads to the second general consideration; namely, that the status of collective bargaining outside government establishments has its repercussions within the public service. Ordway Tead has called attention to the fact that it is not only the amount of self-determination extended a group of employees which affects their morale, but the relation of their status to what they consider to be the accepted rights of workers outside their ranks. Both employees and employers come within the influence of the accepted industrial standards of organized representation. In this regard, the public service can be readily compared with the field of professional work about which Tead wrote:[52]

> Claims of self-respect, of effective and sustained voicing of general concern for fair terms, of treatment which does not discriminate in favor of highly organized manual workers, of the professional integrity of callings which require an expensive prior training—these all arise to establish in the white-collared worker's mind the value of having and using some formal and recognized agency of conference with the corporate employer. The more it becomes a matter of course that employees can and do organize, the more important to the employer does it become that the professional workers do not stand outside the organized methods provided for the orderly handling of adjustments.

[51] Elton D. Woolpert, "Personnel Practices and Public Relations," *Public Management*, November 1939, pp. 338–39.

[52] *New Adventures in Democracy*, p. 208.

From this we might anticipate a desire on the part of the general mass of government workers for the latitude in collective dealing which is prevalent in private industry and is carried over into government service to some extent by the unions of craft and industrial workers, in whose view the government possesses no unique status as an employer. Those who hold that this claim is likely to be forced upon the government are in a minority. Yet its denial may possibly lead to the "campaign of passive resistance" which Leonard White tells us is the result of unsatisfactory conditions of public employment.[53]

Upon these various considerations, the public official may reach the broad conclusion which Tead reached in discussing the public service before a group of federal supervisors and employees:[54]

> Good administrative management today requires explicit, articulate, responsible and wisely led organization among the rank and file of workers involved, organization that is met by management in such a way that not only are employee rights protected, but employees are affirmatively stimulated to the best group achievement.

A more detailed evaluation of the methods of collective dealing which have been outlined above will be possible in the light of their application to the specific problems which are analyzed in the following chapter.

Determination of the Duly Constituted Representative

If he accepts the conclusion that the aims of the public agency will best be served by allowing organized representation to the employees, the public administrator is likely to be confronted with the questions: For what unit of the staff does the representative speak? Does he represent minorities in that unit which have not authorized him to be their spokesman? Which of two or more competing representatives should be dealt with as the authorized agent of a given unit of the staff? These questions have been posed in private business as employee organiza-

[53] *Introduction to the Study of Public Administration*, p. 453.

[54] "The National Movement for Better Public Service," Graduate School, U. S. Department of Agriculture, 1938. Incorporated in his *New Adventures in Democracy*, pp. 114–15.

tions spread and multiplied. A small amount of experience in public services is available as a guide to their solution.

Majority Representation

A public employer may, as we have seen, recognize an organization of employees in order to fix its responsibilities and simplify his contacts with employees. In so doing, he has the alternatives of recognizing the organization as representing its members alone or of dealing with it as the representatives of all the employees in the agency or in an appropriate unit. The policy of the federal government in regard to this question as it arises in private industry is embodied in Section 9a of the National Labor Relations Act. This section restates the principle which was first enunciated by the National Labor Board of the NRA that representatives of a majority of employees in an appropriate unit shall be the exclusive representatives of all employees in that unit.[55] The National Labor Relations Board has applied and interpreted this "majority rule" in many important cases since 1935.

Attention was drawn to the majority rule in public employee relations by the recommendation of Reeves and David for the President's Committee on Administrative Management. They recommended that the following provision be incorporated in a federal employee relationship policy:[56]

> The majority of the employees in any professional group, or craft, or other appropriate unit should have the right to determine the organization, person, or persons to represent the group, craft, or unit in joint conferences with administrative officials or the representatives of such officials.

The assumption underlying the majority rule was stated before the 1937 meeting of the Civil Service Assembly by the Director of Personnel of the Tennessee Valley Authority:[57]

[55] Selig Perlman, "The United States of America," in H. A. Marquand and Others, *Organized Labor in Four Continents* (New York: Longmans, 1939), pp. 377, 380, 383.

[56] *Personnel Administration in the Federal Service*, p. 54.

[57] Gordon R. Clapp in *Proceedings*, Twenty-Ninth Annual Meeting of the Civil Service Assembly, 1937, p. 53. See the corresponding statement for the entire field of employee-management relations by H. C. Metcalf, ed., *Collective Bargaining for Today and Tomorrow* (New York: Harper & Bros., 1937), pp. 143–44.

In general employee organizations include those employees who are most concerned about the problems of the service and consequently should be accepted as the ones with whom management should deal in studying and working out solutions to problems relating to the improvement of the service. Individual employees and nonunion employees, if they become sufficiently concerned, will then seek an opportunity to align themselves with those organizations that are recognized and attempting to assume some responsibility for improvement in morale of the service or will find the means of making their contribution individually. This assumption has its analogy in our political state. The individual who does not exercise his franchise or who does not take advantage of the opportunity to give expression to his ideas and opportunities as a citizen through recognized machinery throws aside his opportunity to be represented except in a nominal way.

Lewis Mayers argued against such a policy in 1922 when he wrote his *Federal Service*:[58]

The difficulty in the Federal service or in any public service of according to any organization standing outside the service the right to speak for the employees is that membership in such organization almost invariably involves the payment of dues and, quite frequently, the liability to additional assessment for special purposes from time to time. Almost invariably also, especially when, as in the case of the National Federation of Federal Employees and of all the postal unions, the organization is affiliated with organized labor generally, membership involves also a certain measure of financial, or at any rate moral, support of movements and principles which have no direct connection with federal employment. For these reasons its seems manifestly improper for the federal service to require of an employee, as a condition to his obtaining permission to participate in the selection and instruction of conference representatives and the like, that he assume these wholly external, and from the official standpoint wholly irrelevant, financial and moral obligations.

The Tennessee Valley Authority incorporated the principle of majority determination in its Employee Relationship Policy.[59] But it is in this regard "unique . . . among federal agencies."[60]

[58] *The Federal Service*, p. 572. It will be recalled that until 1932 the National Federation of Federal Employees was affiliated with the American Federation of Labor.

[59] Sec. 6.

[60] Johnson, "Unionism in the Federal Service," p. 314.

This policy may be informally applied in those cities which, as we have seen, grant sole recognition to certain craft unions. General unions of public employees, however, are not inclined to make a serious issue of recognition as majority representatives.

> On a matter of . . . formal recognition . . . we are not attempting to formalize to any great extent, and have not pressed for recognition except in a few instances.[61]

The president of the National Federation of Federal Employees comments that the majority rule "is certainly not a live issue in the federal service."[62] The enactment and general application of the National Labor Relations Act may quite conceivably lead to more widespread attention to this question by both public employees and government officials.

Problems of Competing Representatives

But even with the acceptance of the principle of majority determination, difficulties remain concerning the mechanics of the selection and the designation of the unit within which the employee's choice will be made. The prospect of these difficulties may be a deterrent to administrators who have not thus far inaugurated formal relations with employee organizations.

As the second chapter of this report indicated, duplication and overlapping of associations is the rule among government employees. Not only are there rival national organizations in all jurisdictions, but these organizations frequently compete with purely local and perhaps informal associations. The relations among these groups are often strained and sometimes bitter.[63]

This type of rivalry is by no means peculiar to the American service of the contemporary period. It has sometimes been a difficult problem in Switzerland[64] and in England. Leonard

[61] Arnold S. Zander, President of the American Federation of State, County, and Municipal Employees, letter to Gordon R. Clapp, February 27, 1940.

[62] Luther C. Steward, letter to Gordon R. Clapp, January 29, 1940.

[63] Johnson, "Unionism in the Federal Service," *passim;* and Spero, *The Labor Movement in a Government Industry,* pp. 292–302. On similar conditions in the municipal service, see New York State Bureau of Municipal Information, "Unionization of Municipal Employees" (Report No. 1826), p. 2, and Civil Service Assembly Survey, New York State, pp. 508–10.

[64] Friedrich and Cole, *Responsible Bureaucracy,* pp. 71–72.

White wrote of staff associations which represented employees upon the National Whitley Council:[65]

> There is disagreement on many phases of a positive program, there are profound disagreements on methods of agitation and pressure, further differences on the proper basis of organization, jurisdictional disputes, and personal controversy; and back of them all lies a tradition of social distinction in the civil service which makes substantial unity apparently a distant goal.

It appears that any approach to collective representations in government will sharpen the problem of designating employee representatives. This prediction was made by members of the staff of the President's Committee on Administrative Management:[66]

> The general adoption throughout the Federal service of a joint conference procedure in connection with the formulation of personnel relations, although highly desirable for the reasons previously discussed, is more than likely to lead to a considerable number of representation disputes among employees.

To the extent that growth and methods of unionism in the public service parallel experience in private employment, representational disputes are certain to become a problem of increasing importance and occurrence.

In their monograph for the President's Committee on Administrative Management, Reeves and David have given this problem the most careful consideration it has so far received in discussions of public personnel administration. Their recommendations are therefore worth considering in detail.[67]

Fortunately, the principles to be followed in the settlement of representation disputes have been considerably clarified through experience in recent years. It has become apparent that such disputes can rarely be settled by management officials, whether in public or private service, without leaving substantial groups of employees dissatisfied. When an impartial agency is available, however, representation disputes can readily be settled by holding an election or by other appropriate procedure.

[65] *Whitley Councils in the British Civil Service* (University of Chicago Press, 1933), p. 311.
[66] Reeves and David, *Personnel Administration in the Federal Service*, p. 55.
[67] *Ibid.*, p. 55.

The report proceeds to list the following specifications for a Federal Service Personnel Relations Committee which would perform this function:

1. Detachment from active administration
2. Professional experience in this technical field of labor relations
3. Part-time service, supplemented by the service of a full-time secretary and his staff.

Existing governmental labor relations boards are believed by Reeves and David to be well qualified to deal with these problems in the public service, were their staffs not too heavily burdened to take on additional problems. The solution for local governments might involve extension of the jurisdiction of state labor relations boards to the employees of states, counties, and municipalities. Legislative action would apparently be required in any case. The proposed Federal Service Personnel Relations Committee would be empowered to investigate disputes arising among employees as to who are their duly constituted representatives, establish rules necessary to conduct elections, and determine the employees eligible to participate in an election. The last duty is a difficult one, which is already being faced by some public administrators. In the absence of reports upon precedents in the public service, however, it is possible at this time to draw only upon the experience of the National Labor Relations board,[68] the National Mediation Board,[69] and corresponding agencies.

At least a temporary working relationship with two or three unions jointly has been developed in several federal departments and agencies without resort to majority determination. The representative grievance adjustment boards of the U. S. Civil Service Commission and the Department of Labor embody this type of relation. In the Commission, one member is selected to the board by each of two unions, and these two select the third employee representative.[70] In the Labor Department, two rep-

[68] For a detailed discussion of the Board's decisions in respect to the appropriate unit, see *Second Annual Report of the National Labor Relations Board (1937)*, pp. 122–40; *Third Annual Report (1938)*, pp. 156–97.

[69] *Annual Report*, 1935, pp. 19–24; for 1936, pp. 11–12.

[70] *Annual Report of the U. S. Civil Service Commission, 1933*, p. 12, and Johnson, "Unionism in the Federal Service," p. 296.

resentatives from each of three unions comprise the employee side of the appeals body.[71] A similar relationship has been established in the U. S. Housing Authority for dealing with questions of personnel policy.[72] The Director of Personnel of the U. S. Department of Agriculture writes:[73]

> It is especially important that administrators consult with employee groups on questions relating to policies in which the employee may have a direct interest. Such consultations can frequently be simplified where organized groups represent the majority of the employees concerned. However, where the members of these organizations are in the minority, they can still serve a useful role in bringing to the attention of the administrator various problems or suggestions which may be of benefit to the unorganized employees as well.

In none of these cases is the representation of any union dependent upon the size of its membership. Consequently, they speak solely upon the merits of their case and upon purely informal claims to represent a significant proportion of employees. This situation is differentiated from collective bargaining under the majority rule by the Director of Personnel of the Tennessee Valley Authority. Unions of trades and labor employees in the Tennessee Valley Authority maintain relationships correctly termed "bargaining," but "other devices of group participation" obtain in the relationships between the Authority and its professional, technical, and "white-collar" employees.

This difference in specific methods is due to many factors. The simplest and most obvious reason is that employees in this large group have not yet defined any clear-cut lines of organizational jurisdiction upon which representation can be clearly based; further, to whatever extent these lines of jurisdiction have been drawn as, for example, among the so-called "white-collar" clerical employees, the existence of competing and rival employee organizations has thus far produced no one organization that can begin to claim to

[71] *Proceedings,* Thirtieth Annual Meeting of the Civil Service Assembly, 1938, p. 65.

[72] Observe the notation in Administrator's Order: "The procedure outlined herein is the result of negotiation between representatives of the Administrator and organizations representing employees of the United States Housing Authority," Order No. 219, "Employee Promotion Procedure," June 19, 1939.

[73] Letter, Roy W. Hendrickson to Gordon R. Clapp, February 5, 1940.

represent the majority of employees normally construed to be within its jurisdiction. It is, of course, elementary to point out that there can be no collective bargaining in the usual sense until and unless the question of majority representation is settled by and among employees themselves.

As a substitute for the usual devices of collective bargaining, there have developed within the Authority methods of joint consultation and conference through which the participation of representatives of the various "white-collar" and professional employees' organizations can be obtained. The conference method draws upon employee judgment and viewpoint in the development, review, and appraisal of policy matters that are clearly of interest and concern both to employees and the management of the Authority.[74]

Whether this is a lasting solution to the problem of employee representation remains to be seen. It is conceivable that these federal employees will demand increased formal recognition, particularly as joint negotiation is begun upon general policies. In this event, the majority rule may be invoked by employees or by administrators, and direct competition for recognition may be precipitated between the unions culminating in final designation of a single representative organization for each appropriate unit of the service.

Apparently disputes between employee groups concerning their representative capacity have not become a general problem in states, counties, or municipalities. Interunion rivalries and even conflicts have occurred, but have not generally involved management. The explanation may be that there are no external rivals for the strong craft unions and laborers' unions in local government units, while the unions of clerical and professional employees have not achieved sufficiently formal recognition to bring the issue to the front.[75]

[74] Gordon R. Clapp, unpublished address before the National Conference of Social Work, Buffalo, New York, June 1939.

[75] Civil Service Assembly Survey, see especially Tacoma, p. 163; Alameda County, p. 184; and Duluth, p. 167. Minneapolis offers an interesting exception. Two unions of construction laborers, both affiliated with the American Federation of Labor, brought before the Civil Service Commission a dispute concerning a suggested reclassification which one local felt would permit the other "to come in and share jurisdiction in the city labor situation." See also the case of Rochester, N. Y., as reported by the New York State Bureau of Municipal Information, "Unionization of Municipal Employees" (Report No. 1826), p. 2: "The situation is rather muddled at the present time, both sides claiming that they have the majority of the enrolled members."

External Affiliation of Government Employee Organizations

The inventory of employee organizations in the second chapter showed that slightly more than half of the government service unions about which information is available are affiliated with the American Federation of Labor or the Congress of Industrial Organizations. The percentage of affiliated members was fifty-five in 1937, sixty-two in 1938, and fifty-eight in 1939. Since the several large independent organizations of state employees were omitted, this proportion should be reduced to slightly less than half.

Affiliation was initially undertaken as the result of necessity on the part of the union when independent action was stifled.

> As the national president [of the National Federation of Post Office Clerks, American Federation of Labor,] explained in a statement of the union's policy and purpose, the organization was "in no sense antagonistic to the heads of departments or established rules," but, "if we cannot appeal to Congress in our own behalf, we must do so indirectly, and this we expect to do through the Legislative Committee of the American Federation of Labor and the various central bodies throughout the country." In other words, the thing that made the new move necessary was the gag order.[76]

Similarly, among the police forces at the close of the war, public and official indifference to their less strenuous efforts to improve their conditions precipitated a wave of applications for American Federation of Labor charters. Raymond B. Fosdick wrote of the police forces of large American cities in 1920:[77]

> It has been apparent for years that the police are underpaid. They have appealed to their superiors, they have appeared before finance committees and councils, they have taken their claims to the public through the press—too often with no result, sometimes, indeed, meeting with nothing but brusqueness and abuse.

Restrictions upon Affiliation

The movement toward affiliation proceeded less hampered by statute than was the case among European nations. The world

[76] Spero, *The Labor Movement in Government Industry*, pp. 111–12.

[77] *American Police Systems* (New York: Century Co., 1921), p. 320. See also Spero, "Employer and Employee in the Public Service," *Problems of the American Public Service*, p. 221.

situation prior to World War II is summed up in the following sentences by the *Encyclopaedia of the Social Sciences:*[78]

> Nor do many governments allow their staffs to affiliate organically with the industrial labor movement. A limited degree of affiliation is permitted in the United States, Canada, and Australia, but none whatsoever in Great Britain (since 1927), France or Germany (since early in 1933). The nondemocratic character of the political organization of Italy and Japan precludes state employees from maintaining group relations with private labor.

The limiting legislation referred to here is undoubtedly the Lloyd-LaFollette Act. As has been indicated above, this act provides no practical deterrent to affiliation with the American Federation of Labor or the Congress of Industrial Organizations since neither imposes "an obligation or a duty" upon federal employees "to engage in any strike," or proposes "to assist them in any strike, against the United States." Indeed, nine years after the Lloyd-LaFollette Act was passed, Congress specifically rejected an amendment to an appropriation bill "that no money appropriated by this act shall be paid to any employee under the classified civil service who is a member of an organization of government employees affiliated with an outside organization." Two similar amendments were defeated at the same session.[79]

District of Columbia policemen are restricted in their affiliation by a federal statute which provides in part:[80]

> No member of the Metropolitan police of the District of Columbia shall be or become a member of any organization, or of an organization affiliated with another organization . . . which holds, claims, or uses the strike to enforce its demands.

Firefighters of the District were covered by a law containing an identical prohibition[81] until very recently. The 1939 Congress repealed the restriction upon affiliation of firemen, although it was allowed to stand in the case of the police forces.[82]

[78] Walter R. Sharp, "Public Employment," vol. XII, p. 635.
[79] Spero, *The Labor Movement in a Government Industry,* pp. 226–28. Observe the broad prohibition of membership in any chapter of almost any religious or civic organization which is conveyed by the clause quoted.
[80] 41 Stat. 363, December 5, 1919.
[81] 41 Stat. 396, January 24, 1920.
[82] Public No. 245, 76th Cong.

However, among local governments, the issue of whether to permit affiliation seems frequently to be a real one. Several municipalities have ordinances forbidding police or firemen to join affiliated labor unions.[83]

A few governmental units have similar legislation in force regarding all employees. In Baltimore there was, until 1937, a rule of the City Service Commission which prohibited membership in an organization not approved by the Commission or department heads. In that year, the question of permitting employees to form a local of an affiliated union was under consideration by the City Service Commission.[84] Massachusetts has a state law which requires permission to form any organization.[85]

Arguments for Restrictions

In general, it appears that the dominant reason for the desire to isolate government workers from the general labor movement is the fear that affiliation will divide the loyalty of the government employee.[86] In discussing a policy of recognizing affiliated unions of city employees, a Baltimore taxpayers' organization comments: "Such a tie-up implies an allegiance with possibilities of foreign interference in the orderly conduct of the public services."[87] Speaking at the Twenty-Ninth Annual Meeting of the Civil Service Assembly, Mr. Spero advanced refutation of this doctrine by the device of *reductio ad absurdum*:[88]

> Now where would the logic of this position lead? It would lead to barring employees of the state from all outside organizational contacts, for what is true of the trade union movement is also true of the church, of fraternal orders, or even of patriotic societies.

It is possible, although not easy, to imagine a logical distinction between affiliation with a labor movement and affiliation with a civic or religious movement equally active politically,

[83] Ziskind, *One Thousand Strikes of Government Employees*, lists Omaha, Nebr., Macon, Ga., Roanoke, Va., San Antonio, Tex., and Philadelphia, p. 242.
[84] New York State Bureau of Municipal Information, "Unionization of Municipal Employees" (Report No. 1826), pp. 3–4.
[85] Ziskind, *loc. cit.*
[86] Friedrich and Cole, *Responsible Bureaucracy*, p. 77.
[87] *Your Tax Dollar*, March 23, 1938, p. 1.
[88] *Proceedings*, p. 66.

but which might not inject its programs into the relations between supervisor and subordinate in the public service.

The Boston police strike of 1919 has been interpreted as a demonstration that public opinion will not sanction the affiliation of public employees with the labor movement. George C. S. Benson wrote in his study of the civil service in Massachusetts that this strike "determined that civil service employees could not afford to affiliate with the American Federation of Labor."[89] Practical indications were that the reaction to the strike strongly affected police and firemen's organizations but did not have great effect outside the uniformed forces. It should also be considered whether the public condemnation was based on the issue of affiliation which precipitated the strike, or on the much more dramatic question of the strike as a tactic.[90] The statements by President Wilson and Governor Coolidge regarding strikes against the public safety point to the latter.

Much more recently Harvey Walker deplored the embroilment of government employee unions in the current conflict between the two houses of labor:[91]

> Denial of the right to affiliate with either the American Federation of Labor or Committee on Industrial Organization would remove much internal dissension from employee organizations and release their energies to attack their primary problem.

Two facts should be considered in relation to this suggestion: there was factional strife between government organizations before they became affiliated with the labor movement;[92] and in England the ban on affiliation has, as was noted above, worked no improvement in the harmony of the staff associations. Secondly, the parent bodies may adjust certain interunion disputes of their own accord which might otherwise become problems for management.[93] This function of mediation between rival organizations might be developed further by returning increased responsibility to the chartering body.

[89] *The Administration of Civil Service in Massachusetts* (Cambridge: Harvard University Press, 1935), p. 15.
[90] Beyer, in *Problems of the American Public Service*, p. 154.
[91] *Proceedings*, Civil Service Assembly, 1937, p. 51.
[92] Spero, *The Labor Movement in a Government Industry*, p. 88.
[93] White, *Introduction to the Study of Public Administration*, p. 439.

A slightly different interpretation of the implications of affiliated employee unions for governmental authority is presented by Leonard White and Sterling Spero. The former writes in the *Introduction to the Study of Public Administration*:[94]

> Affiliation may be supposed to result in a sympathetic attitude on the part of the government employee toward organized labor, although it does not appear (with some exceptions) that this attitude is now widely extended . . . . A substantial change in attitude must intervene before public service affiliation with the organized labor movement becomes a connection of spirit rather than one of form.

Spero concludes from his study of the postal service that "affiliation has been of great value to postal organizations principally as a guarantee of freedom from official domination." The practical effect of affiliation, as these writers see it, is not the indoctrination of the civil service associations with a labor philosophy nor the modification of their programs in the direction of traditional labor tactics. It is rather to furnish them sufficient support and self-confidence to represent employees "without having to compromise on essentials in order to remain in departmental favor."[95]

Arguments against Restrictions

It has been suggested, moreover, that the need for external ties is peculiarly great in the public service for a variety of reasons. The first is stated by Eldon L. Johnson from an interview with Arnold Zander, President of the American Federation of State, County, and Municipal Workers of America: "Federal service unions, as previously suggested, are always under temptation to become company unions. Outside affiliation is an aid in resisting this inclination."[96]

[94] P. 439. Walter R. Sharp reports the same lack of identity in the relation between the French civil service associations and the C.G.T. or general federation of labor. "To a neutral observer their presence in the labor confederation appears to be more a gesture of *camaraderie* than an indication of fundamental unity in economic aims or outlook." "Public Personnel Management in France," in *Civil Service Abroad*, p. 144.

[95] This and the preceding quotation are from Spero, *The Labor Movement in a Government Industry*, p. 294.

[96] Johnson, "Unionism in the Federal Service," p. 130.

Presumably the reason is that federal employees, along with those in local governments, are deprived of or deny themselves the strike weapon, which predisposes them to pliability in dealing with public management.

A very obvious asset to government employees is voting power and political prestige. A member of the Washington, D. C., bar writes:[97]

> Isolated government unions are at a great disadvantage in obtaining the passage of favorable legislation: they are thwarted by the popular mistrust and antipathy toward the job-holder on which legislatures capitalize; they are subject to political restrictions which prevent them from taking an active part in politics and elections; they have many members who cannot even vote. Because of these disabilities, affiliation with the national labor movement, which does wield political power, is a matter of vital importance.

In what may be interpreted as recognition of this value of affiliation, the National Federation of Federal Employees has joined four independent postal organizations in the National Legislative Council of Federal Employee Organizations "to collaborate on matters of mutual interest."[98] This Council has no connection with the labor movement. The most convincing evidence of the power of affiliation is the habitual question asked of union representatives in Congressional hearings—"For how many members do you speak?"[99]

A third factor of significance only to government employees stems from the relation between public and private pay scales. Prevailing rates are specified for many government services, and for other public employees, the level of corresponding salaries in private business enters as a more or less determining factor into compensation levels. The inference is drawn from this by Spero that:[100]

97 Carol Agger, "The Government and Its Employees," *Yale Law Journal*, May 1938, p. 1129. See the similar statements of Meriam, *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 279; and Mayers, *The Federal Service*, p. 555.

98 Luther C. Steward, "Objectives of an Employee Union," *Personnel Administration*, February 1939, p. 7. Mr. Steward stresses the need for common interests among affiliates.

99 Johnson, "Unionism in the Federal Service," p. 124. For a recent illustration, see *Merit System and Classification Extension*, Hearing before the Committee on the Civil Service, House of Representatives, 76th Cong., 1st sess., p. 104.

100 *The Labor Movement in a Government Industry*, p. 47.

the general labor movement is a means of raising the economic standards of all wage earners, and that every bit of help government employees give towards keeping up this standard is of direct benefit to themselves . . . . for the standard of government wages is determined ultimately by the standard of wages outside.

While more limited in effect than the preceding arguments for affiliation, this point may be very important to craft employees.[101]

Affiliation of employee groups with organized labor may have value to the administration of a public enterprise as well as to employee welfare per se. One ubiquitous problem of public officials is to secure sufficient funds. The workers in private industry are potential allies or opponents in this effort, and there is a strongly vocal current of opinion which places before the industrial employee the alternative of higher pay or higher taxes to increase public payrolls. The contribution of the general labor movement may be in the field of enforcement rather than enactment of legislation providing public funds. The following incident from Chicago, although probably not typical, is interesting.[102]

The teachers of Chicago found that the public-service corporations were evading taxes. Without the support of outside groups the teachers were helpless to make these giant corporations pay. Once affiliated with organized labor they forced the corporations to pay six hundred thousand dollars additional in taxes, and every cent of this money went into the educational budget.

A final argument against restricting the discretion of employees in the question of affiliation was presented in 1938 by the Chairman of the Railroad Retirement Board. In discussing the potential contributions of employee organizations, he said:[103]

The function of the employee unions in maintaining a democratic spirit in the civil service is also of large significance. By bringing

[101] This relation may work in reverse, and thus explain the interest of the general labor bodies in government employee unions. The President of the American Federation of Government Employees writes: "When we make a gain in the government service, that gain serves as a standard for private industry, and thus all workers are benefited." Charles I. Stengle, "Objectives of an Employee Union—AFGE," *Personnel Administration,* March 1939, p. 5.

[102] Jerome Davis, "The Teachers' Struggle for Democracy," *New Republic,* March 15, 1939, p. 161.

[103] Murray W. Latimer, "The Need for an Effective Civil Service in the Management of Public Affairs," *Proceedings,* Thirtieth Annual Meeting of the Civil Service Assembly, 1938, p. 70.

into the civil service a healthy point of view, gained from their knowledge of the problems of workers as a whole, they can provide one of the best safeguards against the growth of a bureaucracy which regards itself as a class apart.

Conclusion: Decision by Employees

On the basis of these several considerations it does not seem the wise course to deny public employees the right of affiliation, either by statute or refusal to negotiate with affiliated groups. A possible exception may be made in the case of police forces, but this is a matter of academic importance only since neither the American Federation of Labor nor the Congress of Industrial Organizations offers to charter police locals at the present time.[104] On the other hand, the public service hardly seems prepared for the policy embodied in the National Railway Labor Act that organizations "national in scope" shall be given a larger share of responsibility in employer-employee relations[105] than is provided for local or "system" organizations.

There is no evidence that satisfactory relations are impossible either with affiliated or independent organizations. At the same time, management runs a serious risk of losing employee confidence and destroying employee responsibility if it makes a decision as to which type of organization is best for employees. Herman Finer's conclusion, therefore, seems entirely appropriate. He wrote, "I myself can see little harm in leaving the question of affiliation entirely to the Civil Service associations."[106]

Recognition of Outside Representatives

The decision to deal with unions affiliated with the American Federation of Labor or the Congress of Industrial Organizations, if these are chosen by employees, commonly implies that the public administrator is willing to accept spokesmen outside his employ. This has, however, occasionally been raised as a

[104] New York State Bureau of Municipal Information, "Unionization of Municipal Employees" (Report No. 1826), p. 1.
[105] Public No. 442, 73rd Cong., Sec. 3 (a).
[106] *The Theory and Practice of Modern Government*, vol. 2, p. 1424.

separate issue. Regardless of the affiliation of an employee group, the selection of an outsider as its negotiator or representative is apparently interpreted in these jurisdictions as an unnecessary circumvention of administrative channels. The argument may run that the outside representative lacks intimate knowledge of the particular government service, and has no grounds for full appreciation of its purposes. The administrator may even question the sincerity of the representative whose livelihood depended on the aggressiveness of the union. Thus, Lewis Mayers referred to "the danger that control of the employees' organizations will tend to concentrate itself in the hands of professional union officers. . . . There often comes to the fore in union circles a type of aggressive individual who sees in the organization an opportunity for self-aggrandizement which would not be open to him in the service itself."[107]

Two cities were reported by the New York State Bureau of Municipal Information as making a stipulation that union representatives must be employees.[108] However, the Civil Service Assembly Survey indicates that the issue has not arisen in the services studied. It is, for example, general practice for unions to provide legal representatives for aggrieved members. In some cases, a lawyer may be permanently retained by the union as a spokesman.[109] In Indianapolis and the State of Wisconsin, public officials deal with paid union secretaries.[110] As far as information is available, no federal personnel regulations deny employees recourse to spokesmen outside the service, although such a policy was once announced in the postal service.[111]

[107] *The Federal Service*, p. 573. Leonard White notes that among the British staff associations having voluntary leaders "one hears not infrequently hostile observations about the 'vested interests' of permanent secretaries": *Whitley Councils in the British Civil Service*, p. 319. The paid officials likewise question the competence of the part-time representatives.

[108] Rochester, N. Y., and Portland, Ore. "Unionization of Municipal Employees," p. 4. The Civil Service Assembly Survey, Portland, however, reports that counsel is furnished employees by the union in adjusting grievances, p. 179.

[109] Civil Service Assembly Survey, San Francisco, p. 107.

[110] Civil Service Assembly Survey, Indianapolis, p. 83, and Wisconsin, p. 380.

[111] Spero, *The Labor Movement in a Government Industry*, p. 219, quotes the Postmaster General as writing in 1918: "The Department is willing at all times to hear committees of postal employees . . . but . . . the members of such committee must be persons actually employed in the postal service."

The one point which needs to be made in discussing this issue is that full-time employee representatives may serve a purpose among employee groups corresponding to that which the specialized personnel agency performs for operating units of the public enterprise.[112] If the advantages which may accrue to management from the organization of employees are to be obtained throughout the public service, it is desirable that the least articulate, most isolated, and most seriously exploited groups be represented. It is in these portions of the service particularly that representatives outside public employment make an essential contribution. While they may not know the details of problems arising in these areas, they may be uniquely fitted to extend to them standards of personnel management which have been developed elsewhere with their participation.

In some cases, traveling union officials have been able to restrain groups of employees from striking or taking overt action contrary to union policy. Their responsibility for the ultimate objectives of the organization, dependent partially upon public opinion as expressed through the legislature, was a stabilizing factor.[113] On the other hand cases could perhaps be found, particularly in municipal services, indicating that outside representatives were less responsive to employee interests than were employers themselves. No generalizations could justly be drawn to that effect, however. The course apparently followed with few exceptions by contemporary government officials is to leave the choice of their representative entirely to the employees.

Prohibition of Strikes

The administrator relies, for the performance of his delegated functions, on the availability of a qualified staff. He obviously regards the possibility of a strike as a threat to performance and a challenge to authority. This is true in all services; but in the case of certain governmental functions there is the added consideration that the community might suffer grave consequences

[112] Feldman, *A Personnel Program for the Federal Civil Service*, p. 225.
[113] Spero, *The Labor Movement in a Government Industry*, pp. 146, 279.

upon the cessation or even brief interruption of operations. Fire suppression is an illustration on the municipal level; for the federal government, carrying the mails is such a function, and less dramatic activities as meat or drug inspection are equally urgent.[114] No wholly satisfactory answer was found in Chapter III to the question of whether the uniform urgency of its functions set the government apart from other employers. However, few administrators desire to risk the possibility that public confidence in a democratic structure of government will be jeopardized by serious interruption of the government's administrative functions.

Prohibitions by Law

The possibility of strikes of public employees is not greatly restricted by existing statutes.[115] Federal law contains no prohibition of strikes by federal employees. The Lloyd-LaFollette Act suggests that such strikes are against the policy of Congress, but does no more. Several laws dealing ostensibly with other situations may, however, be invoked against strikers. Obstruction of the mails is a criminal offense of which striking postal employees have been judged guilty.[116] Unions calling strikes in munitions plants, navy yards, or ordnance factories might be held in violation of an act forbidding the enticing of such employees from their work.[117] The great body of federal employees, however, are outside the provisions of either act. A much more serious penalty might be applied to strikers if the courts held them guilty of violation of the law forbidding the conspiracy "to commit any offense against the United States."[118] This

[114] Presley W. Melton, "Employee Relations in Federal Service," *Personnel Journal,* September 1938, p. 99.

[115] The same legislative silence prevailed in France prior to 1939, and was true of Germany under the Republic. See Sharp, "Public Personnel Management in France," *Civil Service Abroad,* p. 147; and Finer, *The Theory and Practice of Modern Government,* p. 1412. But the British Trade Disputes and Trade Unions Act of 1927 outlawed any strike or lockout "designed or calculated to coerce the Government, either directly or by inflicting hardship on the community," White, *Whitley Councils in the British Civil Service,* p. 297.

[116] Federal Criminal Code, Sec. 801.

[117] Federal Criminal Code, Sec. 43, quoted by Spero, *The Labor Movement in a Government Industry,* p. 38.

[118] Federal Criminal Code, Sec. 37.

statute was invoked in combination with Section 801 in the Fairmont, West Virginia, "strike" of postal employees in 1915.[119] Its application has been limited to conspiracies to effect an otherwise illegal act. During the 1939 strike of Works Progress Administration workers, Attorney General Murphy stated "its striking men are not criminals."[120] Later, however, the Department of Justice prosecuted a group of WPA strikers in Minneapolis for conspiring to violate Section 28 of the Emergency Relief Appropriation Act of 1939. This section made it illegal to attempt, by force, threat, or intimidation, to deprive a person for whom relief work has been provided of the benefits to which he is entitled.[121] The conspiracy statute appears to offer an added weapon to administrative policy which opposes strikes as such. It is not a direct prohibition of strikes or combinations to effect strikes.[122]

Laws directly forbidding strikes are probably in force in a few local governments, but no complete list is available. The police and fire forces of the District of Columbia are covered by federal statutes already referred to. The wording of the two statutes is similar, that for the fire department providing in part:

> That no officer or member of said fire department, under penalty of forfeiting the salary or pay which may be due him . . . shall resign . . . unless he shall have given . . . one month's previous notice, in writing.
>
> *No member . . . shall directly or indirectly engage in any strike of such department.*
>
> Any member . . . who enters into a conspiracy, combination, or agreement with the purpose of . . . obstructing the . . . operation of the fire department . . . by a strike or other disturbance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $300 or by imprisonment of not more than six months, or by both.[123]

[119] Spero, *The Labor Movement in a Government Industry*, p. 276.
[120] *Time*, July 24, 1939, p. 11.
[121] Ziskind, *One Thousand Strikes of Government Employees*, p. 179.
[122] Ziskind describes other statutes having the same effect: *ibid.*, pp. 235–39.
[123] 41 Stat. 398. The portion here italicized was inserted by an amendment approved July 31, 1939 (Public No. 245, 76th Cong.) in lieu of the sentence regarding affiliation which was discussed above. The act regarding the police department stands as approved in 1919. See 41 Stat. 363–64.

The significance of the amendment italicized is that it indicates the continuance of Congressional desire to prohibit strikes in these services after the ban upon affiliation has been lifted in the case of the fire department. This law, and a similar ordinance passed in Salt Lake City in 1925, were enacted after strikes in Boston and Salt Lake City had aroused popular opposition. But Ziskind reports that correspondence with fifty city attorneys and thirty-seven chiefs of police where anti-strike laws might be anticipated revealed no additional examples.[124]

The cities of Huntington, West Virginia,[125] and Colorado Springs[126] which have declared membership of police and firefighters in trade unions illegal undoubtedly have sought by this means to prohibit strikes in essential services. We have one instance of a law which denies recognition to strikes, but does not forbid them:[127]

> In Buffalo a resolution was adopted which provided that the act of any municipal employee included in striking or relinquishing his employment in connection with any strike that may be called will in effect be considered a resignation, and any seniority rights such employee may have or other protection afforded him will be forfeited by such action.

Administrative Bans

Regulations of administrators or civil service commissions contain additional prohibitions. In some cities "it is definitely understood that each employee of the city by accepting his position agrees that he will not engage in, threaten to engage in, or plan any strike."[128] Such administrative policies may be enforced through the power of dismissal or, if strikes take place, through arrests for local penal offenses.[129] Mayor LaGuardia of New York and President Roosevelt have issued statements de-

[124] *One Thousand Strikes of Government Employees*, p. 235.
[125] Resolution passed in 1919, Spero, *The Labor Movement in a Government Industry*, p. 39.
[126] Civil Service Assembly Survey, p. 182. The city ordinance was the direct result of a strike of firemen in 1918.
[127] New York State Bureau of Municipal Information, "Unionization of Municipal Employees" (Report 1826), p. 1.
[128] Greenman, "Unionization of Municipal Employees," *American City*, November, 1937, p. 97.
[129] Ziskind, *One Thousand Strikes of Government Employees*, p. 240.

claring the strike to be inconsistent with public employment. A letter from the President to Luther C. Steward of the National Federation of Federal Employees contained the following widely publicized paragraph:[130]

Since their own services have to do with the functioning of the Government, a strike of public employees manifests nothing less than an intent on their part to prevent or obstruct the operations of government until their demands are satisfied. Such action, looking toward the paralysis of government by those who have sworn to support it, is unthinkable and intolerable.

When the President repeated his disapproval of strikes by public employees in 1939, he was faced with the question whether the same attitude prevailed with respect to public services which are similar to private business activities. The *New York Times* reported:[131]

The expression of the President's views on strikes of public employees was elicited by questions on the WPA situation. He was told that a strike had been called against the government-owned barge lines at St. Louis, and he was asked whether there could be a strike against the TVA.

Mr. Roosevelt said he could not reply to the question off-hand because in the barge line case that was a subsidiary corporation of the government.

The statement of Attorney General Frank Murphy on the same occasion suggested recognition of some distinction as to type and status of the service involved but reiterated the general policy:[132]

Asked whether he would differentiate between fundamental and proprietary activities of the government, the Attorney General remarked that a somewhat different situation prevailed as between the two activities "but there ought to be no strikes against the government."

Union Policies Regarding Strikes

General unions of strictly governmental employees are unanimous in their renunciation of the strike. The National Federa-

[130] *New York Times*, September 5, 1937, p. 14.
[131] July 15, 1939, pp. 1, 16.
[132] *New York Times*, July 14, 1939, p. 4.

tion of Federal Employees, the American Federation of Government Employees, and the State, County, and Municipal Workers of America[133] have constitutional prohibitions of strikes. The United Federal Workers[134] and the American Federation of State, County, and Municipal Employees[135] have stated officially that they do not strike. While no pronouncement of the National Association of Civil Service Employee Organizations is at hand, its general program and the viewpoint of its director leave no doubt that it rejects the strike as a tactic.[136]

Likewise, all of the government occupational unions reject the strike in principle and actual conduct. The National Federation of Post Office Clerks and the National Federation of Rural Letter Carriers have constitutional renunciations of the strike tactic. There is no doubt from the statements and records of the other postal organizations that they heartily disapprove the use of the strike. This applies to the National Association of Letter Carriers, the Railway Mail Association, the United National Association of Post Office Clerks, the National Rural Letter Carriers Association, and the supervisory associations.[137] The American Federation of Teachers has maintained and publicized its non-strike policy since 1918 and testifies that none of its locals has gone on strike.[138] The International Association of Fire Fighters has a constitutional renunciation of strikes which was not rigidly observed in the early days of the organization.[139]

[133] Provisional constitution provides that striking represents a "violation of principles."

[134] Jacob Baker, statement in *Proceedings* of the Civil Service Assembly, Twenty-Ninth Annual Meeting, 1937, p. 58.

[135] Zander, "Public Employee Unions," *Public Management*, September 1937, p. 260. The American Federation of State, County, and Municipal Employees distinguishes demonstration from striking. "The strike is not used," Mr. Zander wrote. "Picketing, on the other hand, is not forbidden, and although it has not been used to date, it may be used if the need arises." Howard C. Westwood, in *George Washington Law Review*, December 1938, p. 213, defends the logic of this differentiation: "None of the traditional elements of boycott is involved in such picketing." But the constitution of the American Federation of Government Employees expressly forbids picketing.

[136] James D. Errant, "City Wide Organizations of Municipal Employees," *Municipal Yearbook*, 1937 (Chicago: The International City Managers' Association), p. 234.

[137] Spero, *The Labor Movement in a Government Industry*, pp. 48, 292, 298–99, and 300–03.

[138] Ziskind, *One Thousand Strikes of Government Employees*, pp. 203–04.

[139] Mosher and Kingsley, *Public Personnel Administration*, p. 514.

The present enforcement of this provision is, however, vigorous. The Secretary-Treasurer writes:[140]

> The charter of the local in a large city in Western Canada was revoked on October 15, 1936, because the members of that local took a vote on the question of strike. The Association will not tolerate a strike or discussion of a strike by members of our Association.

Only the craft unions whose members are predominantly in private employment place no special restraints upon the use of the strike by their members in government employment. Ziskind points out that these unions have found no cause for modifying their policies in dealing with their governmental employers. "The power to strike had been extremely valuable in dealing with private contractors on public construction, and although it was not so necessary in dealing with public agencies, the unions felt that it was a right which had to be preserved."[141]

Necessity of Prohibiting Strikes

In this practical situation, are administrative prohibitions of strikes necessary? Should public officials seek to end the widespread silence of legislatures on the right of public employees to strike by advocating prohibitory statutes? New light has been shed on these questions by David Ziskind's exhaustive study of the causes, tactics, and outcomes of strikes at all levels of governmental employment.[142]

The title of Ziskind's book, *One Thousand Strikes of Government Employees,* properly suggests that there are enough cases on record to remove the question from the theoretical realm. The fact that strikes of government workers have occurred in all of the major fields of public employment, and in almost all parts of the country makes it impossible to accept, as a fact, the statement: "You can't strike against the government." The evidence is ample that attention ought to be devoted to the

[140] George J. Richardson, "Labor Unions in Fire Departments," *Public Management,* January 1937, p. 8.
[141] Ziskind, *One Thousand Strikes of Government Employees,* p. 210.
[142] *Ibid.* Ziskind records 1,116 government strikes, classified by the function of the public agencies in which they occurred.

problem of strikes both by political organizations and the heads of public agencies in order to develop adequate safeguards against them whatever the answer may be as to the status of any right to strike.

It is not yet possible, statistically, to compare the frequency and scope of government strikes and strikes in private employment. It is clear, however, that in the public service strikes are relatively short-lived, sporadic, and local in effect.[143] Strikes have detracted from the immediate function of the public enterprise, but obviously, according to the most thorough observations available, their seriousness has depended more upon the causes of the strike and the ways open for its solution than upon the nature of the service in which the strike was called.[144]

Ziskind lists seven causes which have been common to almost all government strikes.[145] The most frequent motive appears to have been the lag between wages and rising costs of living of public workers. Complaints regarding hours of work, minor inconveniences of work rules or departure from standards of working conditions accepted in the community have also been prominent. In these causes government strikes have not been unique, although special rigidities in public employment apparently exaggerated some of the wage difficulties. Another group of causes concerned the methods of dealing with the public employer. Like workers in private industry, public employees have struck in the attempt to establish rights of organization, affiliation, and collective bargaining. In many instances they have met determined opposition based upon the doctrines of governmental authority which we have previously examined. As the cases recorded by Ziskind would seem to demonstrate, public employees have not been impressed by these doctrines, and have reacted to what they considered oppressive supervision in much the same manner as have private employees.

Ziskind finds no evidence of some of the motives and methods of which strikers in public agencies are popularly suspected.

[143] *Ibid.*, pp. 189–90.
[144] *Ibid.*, p. 257.
[145] *Ibid.*, chapter XII.

The strikes have not been maliciously planned by enemies of the government.[146]

Knowledge of the attitudes of policemen, firemen, public-health and other public-safety workers indicates that the possibility of their striking in the midst of a public crisis is so small that it does not warrant serious consideration. . . . Government workers have rarely, if ever, struck when their wages were higher or their hours less than those in comparable private employment. . . . In most government strikes both the workers and the officials have been willing to seek a mutually satisfactory solution of their problems, and orderly negotiations have resulted in reasonable settlements.[147]

It is significant to note that, according to Ziskind's study, unorganized workers predominated in public service strikes, just as they have in the public service as a whole. However, whether or not organized, they have rejected the strike as a general policy. "When faced with the dilemma of what appeared to them an intolerable wrong and unrelenting officials, they have been reluctant to strike and have gone on strike only as a last resort."[148] Organizations of public employees have typically restrained rather than encouraged their local members in the use of the strike. At least two reasons appear for this control: public service unions have sought by a general policy renouncing strikes to extend their organizations into services and agencies where they would otherwise be regarded as dangerous, and they have developed effective alternatives to the strike in dealing with employers. The craft unions alone, as we have seen, impose no such controls upon their members as a flat rule or policy.

It does not appear from Ziskind's study that any trend toward self assertion on the part of public employees will precipitate strikes except as a last resort. Increasing organization, it appears, tends toward discipline rather than stimulation of strikes. A more sombre view is taken by a special committee of the National Civil Service Reform League which states:[149]

[146] *Ibid.*, p. 258.
[147] *Ibid.*, pp. 251, 252, 256.
[148] *Ibid.*, pp. 202–03.
[149] National Civil Service Reform League, Special Committee on Government Employe Relationships, *Employer and Employe Relationships in Government* (New York, 1941), p. 6.

It is the duty of the state to avoid unfavorable conditions of public employment, and provide adequate machinery for the prevention and removal of employment problems at their source. But when the state fails in that duty it still remains the obligation of public employes to limit the presentation of their case to peaceable methods. Strikes are incompatible with public employment and if public employees, under color of a strike, refuse to perform their duties their employments must be terminated with loss of all benefits that the merit system implies. It also remains the obligation of the state at all times to carry on its essential public services by such means as may be necessary.

Only with continued understanding and acceptance of such obligations by public employes and officials, will it remain unnecessary for the state to outlaw or prohibit employe action interfering with public services.

Viewed in the light of the record of sporadic strikes which Ziskind has presented, the conclusion of this statement implies that prohibitive laws are not necessary unless there is a general change of attitude on the part of employees. Such a change may be better prevented than cured. As a further statement of the Reform League committee puts it:[150]

Legislation directing the establishment of . . . sections or divisions of personnel relations within the service and establishing methods of conciliation and mediation is desirable and vastly superior to restrictive legislation seeking to outlaw employe organizations or strikes.

The recent development of national defense industrial programs throws interesting light upon the mercurial status of the strike as an accepted weapon of collective demands. Sidney Hillman, the labor member of the Advisory Commission of the Council of National Defense is reported as emphasizing (with respect to private employment in defense industries) that labor has not yielded the right to strike—"it has merely abandoned the privilege of striking."[151] If, under the exigencies of national defense preparations in private employments, labor should voluntarily "abandon the privilege of striking," it is reasonable to assume that the same considerations would probably be weighted

[150] *Ibid.*, p. 7.
[151] Quoted by James A. Wechsler, *PM*, September 4, 1940, p. 8.

even more heavily by labor groups in their attitude toward the use of strikes in the federal service at a time when the government is engaged heavily in an emergency program. Normal attitudes of labor and the public and the official government which militate against a practical use of strikes against the government would be expected to be accentuated in time of a national emergency.

Effectiveness of Prohibitions

There is a question, however, whether prohibitions of strikes in the public service, either by administrative or legislative authority, have proved necessary and whether they would be effective should the conditions of public employment become unbearable to the workers. Ziskind recognizes that the legality of government strikes needs to be clarified, but he advocates that court decisions and laws should be sought which would establish the right to strike in public employment. "Since strikes in government employment are essentially like strikes in private industry, the legality of the latter should be applied also to the former."[152] But this is not to say that governments must accept strikes as a normal hazard to their efficiency. The alternative to prohibition of strikes is not their acceptance but the provision of other modes of settlement. "Such a program involves the organization of workers and their representation by persons of their own choice. It requires that their representatives shall function in collective bargaining and in the adjustment of disputes through machinery for the adjustment of grievances, conciliation, and arbitration."[153] These less critical methods of adjustment will be considered in the following chapter.

In the meantime, it is interesting to find that the judgment of writers on public administration offers general support for the conclusion reached by Ziskind. Five authorities[154] agree with

[152] *One Thousand Strikes of Government Employees,* pp. 251–52.
[153] *Ibid.,* p. 259.
[154] Meriam, *Public Personnel Problems from the Standpoint of the Operating Officer,* pp. 274–75; Mosher and Kingsley, *Public Personnel Administration,* pp. 514–15; Beyer, in *Problems of the American Public Service,* p. 155; Mayers, *The Federal Service,* p. 558.

Herman Finer that strikes of public employees should be prohibited provided explicit methods of negotiating settlements of their disputes with their employers are established. Finer wrote:[155]

If the demands of Civil Servants are given ample constitutional channels in which to find their vent, and satisfaction when found to be just, the strike must be relinquished as a means of forcing the state to surrender.

But it is important to observe the condition upon which the prohibition is to be based. The provision of "ample constitutional channels" is satisfied only through development of cooperative policies and machinery over a period of years.[156] Moreover, such machinery must have afforded satisfaction to the employees for just claims. This suggests the type of renunciation of strikes which is found in many stable agreements between private industrial employers and their organized employees as a product of collective bargaining. Until the practice of consultation and collaboration has reached the point where it guarantees bearable working conditions, the prohibition of strikes is generally considered to be unenforceable. In this connection, in 1937 the National Secretary of the Amalgamated Civil Servants of Canada said:[157]

We feel that any government that would allow conditions in government employ to reach such a pitch as to become intolerable to the workers involved would deserve to have a strike on its hands, and no law prohibiting strikes would prevent one under such circumstances, in the same sense as the prohibition of liquor did not prohibit.

The same point has been made in broader terms by Friedrich and Cole. They wrote:[158]

At this point it is apparent why it is absurd to "forbid" the strike of civil servants. It is as absurd as to declare a revolution unconstitutional, or to outlaw war. On the contrary, none of these events can be "legalized"; they show that every legal order rests upon a

[155] *The Theory and Practice of Modern Government*, p. 1422.
[156] Finer, *The British Civil Service*, p. 211.
[157] Fred Knowles, *Proceedings*, Civil Service Assembly, 1937, p. 58.
[158] *Responsible Bureaucracy*, p. 86.

fact of nature, a social reality beyond all law; namely, the groups of human beings to which it applies.

The question of prohibiting strikes can best be answered, therefore, when the problems of collective dealing through machinery for appeals and consultation have been solved in practice. In the interim, public administrators can rely upon loyalty to the public enterprise which employee groups have demonstrated in recent years. Leonard White bears testimony to this effect:[159]

Although the conditions of public employment were seriously affected by the depression, there was no recourse to extreme measures by organized employees. Reasonable adjustment of working conditions from time to time by the appropriate authorities will easily maintain this satisfactory situation.

From the standpoint of good discipline and democratic procedure, there is much to be said for allowing the self-restraint which employee groups have already exercised to continue to carry the responsibility. The conclusion to which we are brought is that stated by Arthur W. Macmahon in his analysis of labor relations in the New York City subways:[160]

For activities that are peculiarly indispensable, where the injury to the beneficiaries of the service is immediate, inescapable and profound, a condition tends to arise in which the right to strike is neither denied nor utilized. The situation involves elements of balance that elude formal statement. The condition seems unworkable to those who insist on logically tight systems. Yet free institutions rest in part on just this sort of equilibrium; the ability to make it workable was never more important than now.

[159] *Introduction to the Study of Public Administration*, p. 440.
[160] *Political Science Quarterly*, June 1941, p. 198.

Chapter V

Areas of Collective Dealing

RECORDED experience and expert judgment were assembled in Chapter IV in the attempt to reach a reasonable point of view for a workable approach toward employees and their organizations. The answers to the questions posed there determine to a substantial degree whether the employee group will more likely than not respect the good faith of the responsible administrator or be inclined to suspect him of trying to undermine or dictate to employee organizations. If an attitude of cooperation and mutual respect on the part of employees and management is assumed, then questions emerge regarding the methods by which the employees can make their voices heard, and by which the management can obtain their positive contributions to more effective administration. There are at least two major areas in which this participation may take place: the adjustment of disputes regarding the interpretation and application of personnel policies, and the formulation of the policies themselves.

EMPLOYEE PARTICIPATION IN ADJUSTING GRIEVANCES

An aspect of employee management relations around which have centered many of the activities of organized public employees is the settlement of grievances. Several avenues for adjustment have been devised to supplement or modify the ordinary supervisory process. These are examined here as potential contributions to improved relations between the supervisory and the nonsupervisory staff.

European Experience

European governments (up to recent years, at least) have characteristically provided carefully elaborated plans for the judicial determination of cases arising under the laws and regu-

lations governing public employment. Two general systems have been built up through long experience. The French solution was the establishment of an administrative court—the Council of State—to which the staff could appeal any supposed violation of the elaborate legal personnel code:[1]

> Two categories of acts have been brought under the scrutiny of the court [Council of State]: (1) acts pertaining to recruitment, assignment, and promotion in so far as they are regulated by law or ordinance; and (2) acts affecting the discipline and civil rights of state employees. The first group of acts is concerned with application of the merit system; the second, with problems of authority and staff morale. By this process an individual civil servant may appeal for the annulment or modification of any act affecting his professional status, directly or indirectly, provided the applicability of a statute or ordinance is involved.

The British machinery for resolving individual disputes concerning the personnel policies of the Treasury is part of the Whitley Council system. The departmental joint councils are the final courts of appeal from a complex and flexible system of local, office, and sectional joint committees. Seventy departmental councils were functioning in 1933, many of which had been in existence since 1919. To illustrate the surprising volume of joint decisions for which this system is responsible, we may take the 1931 report for a single departmental council—the very active Customs and Excise Whitley Council. In that year the Council recorded over 230 agreements and 19 disagreements.[2]

American Grievance Procedures

As against these examples, the United States appears relatively backward in the development of procedures for the cooperative adjustment of grievances arising in its public services. In the federal government as of 1939 three departments and

[1] Walter R. Sharp, "Public Personnel Management in France," in *Civil Service Abroad* (McGraw-Hill, 1935), pp. 97–99.

[2] Leonard D. White, *Whitley Councils in the British Civil Service*, pp. 25, 54, and *passim*.

three independent establishments reported formalized grievance procedures.[3]

New York City has in its Department of Welfare what is probably the leading plan for appeal of grievances at the municipal level. Columbus and Toledo, Ohio, and Los Angeles County have employee appeal procedures which have received notice.[4] Among the eighteen cities and counties included in the Civil Service Assembly field survey, no instance of formalized procedures for handling employee grievances was reported, nor has accomplishment in this direction been noted in the state governments. It is probable that the typical situation in local jurisdictions is like that described in the Michigan state service prior to enactment of the 1937 state civil service law. This account deals only with dismissals, perhaps the most important subject about which employee-supervisor misunderstandings are likely to occur:[5]

> Nominally, the head of each agency is free to dismiss his employees when he chooses, and he is—if their sponsors are not too powerful. All too often, the employee who should be discharged is beyond the effective reach of his superior, because the superior dares not invoke the wrath of the employee's protector. However, the luckless employee who has no such protection is in quite a different position. Not only is his tenure subject to whatever whim the agency head cares to indulge, but he is also in constant danger of being peremptorily displaced by someone with adequate backing.

That there is a growing demand from the employee organizations for the institution of permanent procedures to expedite the adjustment of individual grievances seems clear beyond question. As we have seen, both of the organizations of state, county, and municipal employees which are affiliated with labor strongly advocate an appeals procedure.[6] Unions of federal employees list appeals machinery as one of their major interests.

[3] John J. Corson and Ilse M. Smith, "Federal Policies on Employee Relations," *Personnel Journal*, October 1939, pp. 151–59.

[4] G. Lyle Belsley, "Personnel Administration," *Municipal Yearbook*, 1939, p. 15.

[5] *Personnel Administration in the State of Michigan*, prepared for the Civil Service Study Commission, June 1936, pp. 43–44.

[6] Arnold S. Zander and Abram Flaxer, "Public Employee Unions," *Public Management*, September 1937, pp. 260, 263.

Most of this interest centers upon the provision of adequate channels for employee appeals from dismissals.[7]

Need for a Channel of Appeals

There seems no longer to be any substantial question that a recognized channel for supplementing the immediate supervisor's interpretation of personnel policies can be made to increase the effectiveness of administration as well as to benefit the employees. There are three principal reasons generally advanced for the establishment of such a channel. The first is that it tends to assure judicious decisions on the part of the lower supervisors in matters which affect the rank and file. It seems unrealistic to expect that all "line" officers, charged with a multitude of duties of which proper supervision is but an important part, will invariably make judicious applications of elaborate policies affecting their subordinates. This is one of the points made by Herman Feldman in his *Personnel Program for the Federal Civil Service:*

> The wide separation between the head of a department or important unit and the rank and file of the employees leaves the intermediate executive in the position of determining actual operating conditions. The head of the department, being removed from the actual facts of a complaint, may have faith in an officer who is not to be trusted, or who himself does not know the facts.[8]

To many observers the important possibilities of the effective grievance procedure, however, lie in their educational and preventive aspect rather than in the adjudication of the individual case.[9] The supervisor can be made aware that differences of opinion are natural, and that employees have a legitimate claim that their case be heard by those most likely to know the standards on which such cases are decided. Once adjustment becomes a normal administrative procedure, the supervisor's views, in so far as they are emotionally opposed to the "insubordinate" intent of the employee, will be reduced to a mini-

[7] Eldon L. Johnson, "Unionism in the Federal Service," p. 274.
[8] P. 240.
[9] *Proceedings,* Thirtieth Annual Meeting of the Civil Service Assembly, 1938, p. 65.

mum. The supervisor will be relieved of his fear that the airing of a grievance against his interpretation of a rule constitutes a failure on his part to keep his force "in line." Note the interesting statement by the Secretary of the National Federation of Federal Employees that "it was easier to deal with departments having conciliation committees."[10]

A second aspect of the appeals procedure is its effect upon employee attitudes:[11]

> The average employee . . . feels greatly relieved about the contingencies which he sincerely hopes will never arise if he knows that machinery is available to insure him a fair hearing and a recourse to appropriate remedial action. He is like the average citizen, who never expects to bring suit in the courts but feels reassured because the courts do exist for his protection in case of need. In addition, he develops confidence in management; and from such confidence come the positive advantage of more cheerful and wholehearted cooperation and the negative advantage of the reduction of grievances based on suspicion.

A final argument for the institution of a special appeals procedure is a very tangible one in many localities. The acceptance of such a procedure by employees will alleviate, to some extent, the pressure of members of legislative bodies upon administrators in regard to individual employee complaints:[12]

> One of the most frequent resorts to outside influence on the part of an aggrieved employee is appeal to a Congressman or Senator. . . . One can hardly blame an employee for appealing to such outside aid under the present system. . . . The disadvantages of this method of rectifying grievances are many. Some legislators aid complainants indiscriminately and make their intervention embarrassing, if not intimidating. Occasionally the administrator who is trying to do his duty is subjected to acrimonious abuse by someone who has never taken the trouble to find out the facts of the case, and who does not take an attitude which would allow suitable explanation to be made. The executive who wishes to lay off an employee as an act of discipline or economy may find himself in a humiliating position, and if this occurs time after time he loses his zeal and gets into the habit of putting up with conditions of this

[10] *Loc. cit.*

[11] Roy F. Hendrickson, "Employee Relations," *Personnel Bulletin,* U. S. Department of Agriculture, vol. I, May 1940, pp. 2, 3.

[12] Feldman, *Personnel Program for the Federal Civil Service,* p. 222.

character at the expense of the public. Conscientious executives have very strongly appealed for some relief from this constant intervention by legislators.

The situation is not confined to entirely unorganized services, as Lewis Meriam points out in the following description:[13]

> The fact is, too, that union officials, if they see fit, can take even individual cases to Congress by way of individual members of Congress. The Congressmen may as individuals intervene in the situation, presenting their views to the appropriate administrative officers. That is done fairly frequently in individual cases. Each house of Congress has its power of investigation and if complaints are at all general or if they reveal what may be regarded as a critical situation, a committee may inquire into it. It must be understood that this congressional form of inquiry does not necessarily involve a special investigating committee. Either the regular legislative committee or the appropriations subcommittee in charge of the appropriations bill for a given agency can inquire, either on the record or off the record, for a report on an individual case.

Some urgency is attached to this problem in that controversies between employees and supervisors have arisen which attracted wide and discreditable publicity to several government agencies. Adjustment procedures have not yet been altered sufficiently to forestall similar cases in the future. In at least four instances of record, outside arbitrators have been called in by both parties to settle grievance cases in federal agencies. Their decisions have implied or expressed the need for a regular administrative channel through which future disputes might be adjusted.[14]

[13] *Public Personnel Problems from the Standpoint of the Operating Officer,* pp. 273–74.

[14] A full account of these cases, and of four others in which no hearing was held, is presented in an unpublished thesis by Richard Feise, "Union Organization Among Federal Employees" (University of Chicago, 1940), chapter IV. For published accounts, consult the case of John L. Donovan in the *Decisions of the National Labor Relations Board* (old Board) July 9, 1934–December 1934 (Washington: Government Printing Office, 1935), pp. 24–29; and the case of Robert Y. Durand reported in Johnson, "Unionism in The Federal Service," pp. 278–79. These cases are summarized by White, *Introduction to the Study of Public Administration,* p. 392. The cases of William Sumpf and Bernard Shultz are discussed by Howard C. Westwood, "The 'Right' of an Employee of the United States Against Arbitrary Discharge," *George Washington Law Review,* December 1938, p. 213; and the case of Jonathan Levine by Spero and Puner, "Uncle Sam, Privileged Boss," *Nation,* January 8, 1938, p. 42.

Problems of Appeals Systems

On the other hand, some officials would contend that any solution of employee complaints which may result in the reversal of the decision of the supervisor directly responsible would undermine his authority and thereby the morale of supervisors and employees alike. They hold, with Lewis Mayers, that "from the negative side the most important means for insuring individual efficiency lies in the possession by those in authority of the power to demote or dismiss those employees who do not perform their work satisfactorily."[15] From the employee's view an appeals procedure excludes its most important type of subject unless complaints on removals from service may be adjusted through it. Yet, it is argued, any barrier to the supervisor's discretion in this matter leads to a fear on his part that a dismissed employee might be reinstated and thus become a worse problem in individual and group morale than before.

Moreover, it is sometimes held that the contentious nature which grievances assume as they are appealed up the hierarchy of authority has been a barrier to employer-employee cooperation in other matters:[16]

> If the adjustment machinery is set up as a court, with the judicial aspect—or, one may say, the litigious aspect—particularly emphasized, the outcome of every appeal is likely to be interpreted as a blow to the prestige of one of the parties involved. Any "victory" may be at a great cost. The "solution" which sends an aggrieved employee back to his old job and his old supervisor, after a bitter battle, may prove to be a Pyrrhic victory for the employee. When John L. Donovan went back to his old work, his superior officer is reported to have said that Donovan would have to "toe the mark." In any case, the appeals method is entirely remedial, rather than preventive. It acts only after the damage is done. Then it seeks restoration. The connotation is too often that of a contest or trial. It is very doubtful whether union-management cooperation can long go on happily from one appeals crisis to another.

[15] *The Federal Service*, p. 492.
[16] Johnson, "Unionism in the Federal Service," p. 282.

Methods and Results of Appeals Systems

Some light may be shed upon these conflicting possibilities by a review of the experience which existing adjustment procedures afford. At the federal level at least six procedures are noteworthy: those in the Departments of Agriculture and Labor, the Civil Service Commission, the Social Security Board, the Tennessee Valley Authority, and the U. S. Housing Authority. Joint grievance procedures in the State and Treasury Departments are apparently inactive.[17] Two general types are represented. The policies of the Social Security Board and the Tennessee Valley Authority provide for the appeal of grievances to successively higher supervisory officers until the bureau head (in the Tennessee Valley Authority the department head) is reached. At this point, in the Tennessee Valley Authority procedure "the employee or his representative may appeal the dispute to the central office of the Personnel Division for investigation and adjustment."[18] In neither case is a representative joint committee or requirement of formal hearing provided as part of the established grievance procedure.[19] In the Departments of Agriculture and Labor, the Civil Service Commission, and the U. S. Housing Authority, a joint committee is provided to hear cases appealed through normal supervisory channels.

The designation of employee representatives on these committees is a problem variously handled. Employee organizations nominate representatives for appointment by the Secretary of Labor and by the Civil Service Commission to the joint committees in those agencies. This arrangement has proved feasible even though two or three unions are active in each agency; equal representation is given to all organizations.[20] But

[17] *Ibid.*, pp. 296, 301.

[18] Tennessee Valley Authority, Employee Relationship Policy, pp. 3–4. A joint adjustment board and impartial referee are included as the final appeals body in the grievance procedure embodied in a general agreement with trades and labor employees in the TVA. The agreement was signed after this report had been drafted.

[19] In the Tennessee Valley Authority, a "fair hearing" is provided to employees discharged from the Authority (Employee Relationship Policy, p. 7), and a joint advisory board of appeals hears appeals from service ratings under the salary policy (Administrative Practice, Part 4, Sec. 7).

[20] Johnson, "Unionism in the Federal Service," pp. 296, 298, 301.

to some observers, who probably represent the view of a number of employees, the appointment of employee representatives by the chief administrator, even upon union nomination, is a symptom of "company unionism."[21] In the Department of Agriculture[22] and the U. S. Housing Authority,[23] on the other hand, *ad hoc* committees are organized for each case, and the aggrieved employee names his representative on these committees independent of official approval. In both agencies, an impartial member is chosen by the equal management and employee representatives. The organization of temporary committees seems to involve fewer complications of employee representation and recognition, while at the same time it takes greater risks of unfamiliarity with policy and procedure.

There is uniformity of practice in making the joint appellate body advisory in power to the administrative head of the agency.[24] There are variations, however, regarding the point in the administrative hierarchy at which representative committees first hear the appeal. The Department of Agriculture is unique in stipulating that such committees shall be organized by and recommend disposition of the case to the bureau chief. If appeal is taken from his decision, the Director of Personnel organizes a second joint committee at the department level. A third and final appeal may be taken to the Secretary of Agriculture. The procedure of the U. S. Housing Authority provides an appeals committee which reports directly to the Administrator of the Authority. The latter pattern is followed in the other joint appeals procedures. The difference is perhaps conditioned by the much greater size of the bureaus in the Department of Agriculture and by the wide territorial distribution of its staff.

The most noteworthy plan at the municipal level is the system of appeals from dismissals in the Department of Welfare

[21] Spero and Puner, "Uncle Sam, Privileged Boss," *Nation*, January 8, 1938, pp. 41–42.

[22] Memorandum No. 753, Revised, U. S. Department of Agriculture, April 4, 1940.

[23] Order No. 220: "Employee Appeals Procedure," June 21, 1939.

[24] The variation of the U. S. Housing Authority plan is a purely technical one: a unanimous decision of the joint board is binding upon the Administrator, but a representative of the Administrator sits on the board.

in New York City, an organization of about 10,000 employees. The Commissioner of Welfare has established a Division of Staff Relations reporting directly to him. Employees may appeal dismissals to the Division of Staff Relations if it is alleged that the dismissal represents discrimination because of race, creed, or organizational activity. The Director of Staff Relations holds a hearing on the case in which the employee or his representative appears. The resulting decision takes immediate effect unless it is in turn appealed to an Appeals Board. The Appeals Board consists of three members not employed in the Department who are chosen by the Commissioner of Welfare from a list submitted by the State or National Labor Relations Board. The Appeals Board may hold a second hearing and recommends action on the case to the Commissioner. Close time limits are set at each stage, and the employee receives full pay for the period of suspension in case he is reinstated after being dismissed. Successful results have already been obtained from this plan according to the views of both the Department and the union.[25]

All of these experiments in the adjustment of individual grievances by procedures of appeal and joint adjudication have been inaugurated since 1933. The tentative evaluation which can now be made, however, discounts the fear, to which some notice has been given, that the responsibility of supervisors will be short-circuited. The Director of Personnel of the Department of Agriculture, for example, concluded after sixteen months' experience that the cooperative adjustment procedure "tended to improve the quality of supervision throughout the Department through placing emphasis on the responsibility of the immediate supervisor to consider and act promptly on

[25] "Dismissals Procedure in the Department of Welfare in New York City," *Public Personnel Quarterly*, vol. I, No. 1, pp. 34–35. The president of the State, County, and Municipal Workers of America has submitted statistics "with regard to the success with which the appeals machinery has been operating in this agency." Of 195 cases appealed to the impartial board in four years of its existence, 62 were withdrawn and 15 were dismissed as outside its power to review. One hundred twenty-seven cases were decided by the board; in 111 the administrator's decision was upheld, in 15 reinstatement was recommended, and one case was returned to the administration to be reconsidered.

grievances."[26] A more recent summary of the record of appeals in the Department of Agriculture confirms this evaluation:[27]

> Bureaus reported that they dealt with 19 formal appeals cases under the uniform procedure during the fiscal year ending June 30, 1939. For the entire two-year period only 4 cases have been carried to the second appeal stage, that is, to the Director of Personnel. None has gone to the Secretary. . . . The small number of appeals, for a department of more than 80,000 employees, indicates that the vast majority of complaints, as distinguished from grievances, are being adjusted by informal means at or near the source of difficulty.

These evaluations confirm the conclusion of Leonard D. White:[28]

> The case for conciliation committees organized within departments and commissions is impregnable. Their function is not to replace the authority of the responsible supervisor but to supplement it, and by informal negotiation to seek the reconciliation of conflicts without incurring the necessity for formal action by any outside body. A representative conciliation committee in sympathetic hands can perform a major service and is a useful part of any large organization.

Appeals Outside the Agency

Employee organizations have in the large obtained what they considered satisfactory results from the joint advisory appeals committees where they here exist in the federal service.[29] A union spokesman, however, held the advisory body to be inadequate for employees of local public agencies:[30]

[26] Roy F. Hendrickson, *The Personnel Program of the United States Department of Agriculture,* Civil Service Assembly, Pamphlet No. 15, October 1939, p. 19. Corresponding experiences are reported by the Director of Personnel of the U. S. Department of Labor, Johnson, "Unionism in the Federal Service," p. 301; and of the Tennessee Valley Authority, in an unpublished statement on "The Employee Relationship Policy," February 1, 1936, p. 7.

[27] Hendrickson, "Employee Relations," *Personnel Bulletin,* May 1940, p. 1.

[28] *Introduction to the Study of Public Administration,* p. 393.

[29] Johnson, "Unionism in the Federal Service," p. 301, Jacob Baker, President of the United Federal Workers of America, recorded the favorable experience of his organization in this regard in a statement presented to the Special Committee of the U. S. Senate to Investigate Administration and Operation of the Civil Service Laws and Classification Act, April 20, 1939.

[30] Statement of A. E. Garey, civil service counsel, American Federation of State, County, and Municipal Employees, at the 1938 Meeting of the Civil Service Assembly, *Proceedings,* p. 63.

In local government, especially in small services, committees that have only powers of recommendation soon fall into disuse. Employees will not trouble to use them because they are quite ineffective.

A second type of procedure for interpretation of personnel policies as they apply to individual employees thus enters the picture. This is the arbitrator or court of appeals outside the agency and possessed of final authority.

Appeal to the courts of administrative decisions, particularly where disciplinary action or dismissal is involved, has been provided in some local governments. The most noteworthy law is that of Massachusetts, where the courts are empowered to review the facts as well as the sufficiency of evidence offered for removal of civil service employees.[31] This procedure has been generally condemned by students of administration. "It subjects administrators to the cumbersome and time-consuming procedures characteristic of judicial action."[32]

This difficulty might be avoided if the final decision were made by an impartial referee or tribunal appointed specifically to adjust personnel grievances. It is for such devices, rather than review by the law courts, that federal employee groups have been pressing.[33]

However, it seems a logical step to push further the attempts to reach satisfactory settlements of grievances within the agencies in which they arise before resorting to procedures appealing to an external authority. This is substantially the proposal of the Reeves and David study made for the President's Committee on Administrative Management:[34]

The most immediate need in connection with this problem is the general extension throughout the service of the practices and procedures for the settlement of grievances that have been found to be sound and workable in the agencies that have given most attention to the problem. In general, this means on the one hand that

[31] George S. C. Benson, *The Administration of the Civil Service in Massachusetts*, pp. 55 ff.

[32] Mosher and Kingsley, *Public Personnel Administration*, p. 348.

[33] Legislation introduced in the 76th Congress regarding appeals machinery is analyzed and compared in an unpublished chart prepared by the U. S. Civil Service Commission.

[34] Reeves and David, *Personnel Administration in the Federal Service*, p. 57.

supervisors must be trained to accept the right of individual employees and groups of employees to be represented in the settlement of disputes and grievances by representatives of their own choosing if they so desire, and their right to appeal to higher officials if they consider appeal necessary or desirable. On the other hand, it means that employees and groups of employees must accept the desirability of attempting to settle grievances through established supervisory channels before appealing to the heads of agencies or attempting to bring pressure to bear from outside sources.

The situation could undoubtedly be greatly clarified and improved by action no more drastic than the issuance of a simple statement of policy in the form of an Executive Order by the President, accompanied by instructions to the heads of the various agencies to establish, with the assistance of the central personnel agency, suitable procedures for the orderly adjustment and settlement of disputes arising within their respective jurisdictions. The procedure in every case should clearly provide for the point at which final action is taken within the agency, whether in the office of the head of the agency, in the office of his director of personnel, or in some special official or committee representing the head of the agency. The services of the central personnel agency should be available both to assist the various operating establishments in the installation of suitable procedures for the settlement of grievances and to assist in the settlement of the more difficult types of cases.

After these important preliminary steps have been taken, it is probable that a small residuum of rather important individual cases may remain that cannot be adjusted and settled within the agencies where they arise. Consideration should then be given to the permanent measures that should be adopted to provide for the disposition of these cases. In some cases, the problem may be solved with complete satisfaction by the establishment of joint boards of adjustment with equal representation of employees and of officials. In other cases, it may prove better to provide on a permanent basis for impartial boards of adjustment that can be called into session when needed.

Limitations of Appeals Procedures

The appeals procedure must not be expected to provide a continuous working relationship between management and employees. Grievances are the exception, not the general condition, although they can be expected in any sizable staff. More-

over, as relations between supervisors and employees reach the basis of day-to-day negotiation, extreme measures for adjudication will be invoked less frequently. This doubtless explains the recent statement of two close observers of the federal service: "Current emphasis on both the early adjustment of grievances and the improvement of supervisor-employee relations has caused a trend away from the use and establishment of appeals committees."[35] To this might be added Eldon Johnson's statement:[36]

> That is not to say that appeals should not be provided for; it means, instead, that they should be rare, and a last resort. The common, institutionalized, and systematic process should be preventive in character. It is exactly the absence of the latter type of machinery which makes more understandable, and gives point to, union advocacy of all kinds of appeal devices.

Employee Participation in Forming Personnel Policies

The close relation which has been observed between the need for grievance adjustment and the existence of joint conference and negotiation procedure makes it appropriate to introduce the latter question at this point. It is significant that less experiment and experience are available in this area than in the adjudication of individual disputes.

Joint Conference Procedures Abroad

British experience with the use of joint conference techniques is generally considered to be more fruitful than that of any other nation. A prime purpose of the Whitley system is the joint consideration of personnel policies by officials and staff. This occupies the entire agenda of the National Council of the Whitley system, and a considerable part of the time of the Departmental Councils, which also handle individual cases:[37]

[35] Corson and Smith, "Federal Policies on Employee Relations," *Personnel Journal*, October 1939, p. 156. The factual basis of this finding is not clear. Two of the five appeals committee plans known to be active were inaugurated in 1938 and 1939.

[36] "Unionism in the Federal Service," p. 282.

[37] "Constitution of the National Whitley Council for the Administrative and Legal Departments," quoted by Leonard D. White in *The Civil Service in the Modern State*, p. 26.

The objects of the National Council shall be to secure the greatest measure of cooperation between the State in its capacity as employer, and the general body of Civil Servants in matters affecting the Civil Service, with a view to increased efficiency in the public service combined with the well-being of those employed; to provide machinery for dealing with grievances, and generally to bring together the experience and different points of view of representatives of the administrative, clerical, and manipulative Civil Service.

Employee and management representation is also drawn upon by the British Industrial Court, through which certain types of broad disputes are arbitrated:[38]

In 1925 arbitration [i. e., for the civil service] was resumed through the Industrial Court, which . . . had been established in 1919 for the purpose of arbitrating industrial disputes.

By the terms of the new agreement arbitration is compulsory upon request of either side, the jurisdiction of the Court covering emoluments, weekly hours of work, and leave. No other issue can be brought before the Court. The government recognizes its moral obligation, subject to the overriding authority of Parliament, to give effect to the decisions of the arbitration court.

No question has ever arisen in fact as to the binding character of the decisions of the Industrial Court in civil service matters, although no specific procedure exists to enforce its awards. The government has never declined to proceed to arbitration upon demand of its employees in a case which fell clearly within the arbitration agreement.

Leonard D. White, the most careful American student of this British system for staff participation, believes it essentially applicable in the United States:[39]

My study of the Whitley Councils, which was made over a period of five years from 1926 to 1931, has led me to the conviction that the fundamental idea lying back of the Council is sound. With the necessary changes to adapt it to American conditions, it might be expected to fulfil the same functions in the American public service which it is successfully fulfilling in the British public service.

A significant development in the field of collective bargaining has taken place in England under the impetus of the war. There, the same wartime deterioration of working conditions that gave

[38] White, "The British Civil Service," in *Civil Service Abroad*, p. 38.
[39] *Ibid.*, p. 44.

rise to the Whitley Council system in the last war has in the present crisis brought about a far-reaching extension of the system. Specifically, the British Government issued its "Employment and National Arbitration Order," providing that labor disputes, including those of local governments, could be referred by the Minister of Labour to a National Arbitration Council or to existing joint machinery for the settlement of grievances. The decision of the body to which the dispute was referred would be binding on all parties. Furthermore, all employers, including local governments, were required to recognize the terms and conditions of employment which had been attained by collective bargaining between organizations of employers or trade unions representing "substantial proportions of the employers and workers engaged in that trade or industry in that district."[40]

Although the purpose of the order was to prevent the interruption of work by trade disputes, it has many implications for the future of collective bargaining of public employees. For example, the provincial Whitley Councils may be recognized as representing "substantial proportions" of authorities and employees. If so, then all decisions of a provincial council on salaries and working conditions would be binding upon all local authorities in the area, whether or not they were members of the council. According to *Local Government Service* for September 1940, the order

> amounts to a statutory recognition of collective bargaining in every industry and undertaking (including local government) and, still more, a statutory enforcement of the results of that collective bargaining. In short, it is a charter for trade unionism of a scope hitherto unattained in this country or anywhere else.[41]

France has a history of extensive negotiation without the emergence of a system of permanent bipartite councils. Thus Walter Sharp writes: "One may refer to the piecemeal emergence of a legal personnel code as the outcome of a generation of

[40] James L. Sundquist, *British Cities at War: A Report of the American Municipal Association* (Chicago: Public Administration Service, 1941), p. 93.
[41] *Ibid.*, pp. 92–93.

joint negotiations between directing officials and delegates of staff associations."[42]

It seems surprising, therefore, that having made great advances in the direction of a career service for governmental personnel on the one hand and toward collective bargaining in industry on the other, the governments of the United States have so largely neglected this intermediate field of collective dealing in government. Possible reasons for the lag may be gleaned from the monograph prepared for the President's Committee on Administrative Management:[43]

> The complexity of the service and the isolation of some of its parts
> The lack of interest in working conditions on the part of some supervisors and administrative officials
> The inarticulateness of the mass of employees
> The uneven and uncoordinated character of existing personnel legislation.

British and French practices represent two possibilities in employee-management rule making: Permanent councils meeting under established grants of authority and representing each side systematically; and on the other hand, temporary negotiating committees affording informal, although sometimes important union-management consideration of a specific topic. The British Industrial Court represents a third distinct category: A permanent and formally established body whose competence is confined to a single area of personnel policy. For purposes of discussion these categories can be applied to American experience.

It is important, in passing, to distinguish employee representation as an alternative to the recognition of unions. This approach has previously been discussed. It has been one method for dealing with a variety of subjects including individual grievances, but frequently excluding basic personnel policies. The sense in which staff participation is here employed does not identify the process with any particular policy of collective

[42] "Public Personnel Management in France," in *Civil Service Abroad*, p. 97.
[43] Reeves and David, *Personnel Administration in the Federal Service*, p. 56.

dealing, either with councils under management auspices, or with labor unions. The relation between unions and joint conferences, however, will be discussed in a later section of this chapter.

General-Purpose Joint Councils

The service relations plan of the Post Office Department represented not only the first, but so far the only extensive American venture in permanent, multi-purpose cooperation between public management and employees. Its National Service Council represented the unions in the postal service. But three facts cast doubt upon its character as a channel of union-management negotiation: the high proportion of supervisors represented,[44] the fact that it declined in prestige as unions acquired strength,[45] and the fact that "economic and administrative matters were seldom touched."[46] The Service Councils thus do not compare in scope or effectiveness with their British counterparts.

The remaining American experience has been with periodic single-purpose conferences or *ad hoc* committees. The wage boards of the Navy Department, the War Department, the Panama Canal, and the Interior Department illustrate these types. Wages of 48,000 laborers or members of skilled trades were fixed by these boards in 1931 under statutes providing that these rates conform to those of private establishments in the locality. The following excerpts are taken from the *Closing Report of Wage and Personnel Survey* of the Personnel Classification Board to describe the wage board procedure:[47]

The Regulations for Boards and Wages of the Navy Department set forth in considerable detail the procedure governing the organization and functioning of the wage boards to comply with the law. The principal points involved in this procedure are as follows:

1. The commanding officer of each one of the 16 designated navy yards or naval stations appoints a board on wages to con-

[44] Johnson, "Unionism in the Federal Service," p. 272.
[45] Mosher and Kingsley, *Public Personnel Administration*, p. 490.
[46] Johnson, "Unionism in the Federal Service," p. 272.
[47] Washington: Government Printing Office, 1931, pp. 311–13.

vene annually, composed of not less than three commissioned officers as members and a civilian employee as recorder. The members are chosen from various divisions of the yard or station so that the membership of the board will be thoroughly representative.

2. Employees of any trade or occupation desiring representation before the board may appoint a committee not to exceed three members to represent them. The committee has the right to suggest private establishments for survey and to accompany the board or board members on personal visits to the private establishments selected for the purpose of collecting wage data.

3. The board holds hearings and considers any evidence submitted by committees as to rates of wages paid by private establishments performing work in the vicinity of the naval yard or station and makes investigations if deemed necessary.

. . . . . .

6. The Secretary of the Navy appoints a wage board of review which considers the reports and recommendations of individual boards and then makes independent recommendations as to the proper rates of wages for each trade and occupation under the Naval Establishment at the various yards and stations for the ensuing calendar year. Upon approval and promulgation by the Secretary of the Navy such rates become effective and remain in force for the ensuing calendar year. . . . . .

The wage survey at an ordnance establishment [of the War Department] is conducted by a committee consisting of at least two members [one of whom is a commissioned officer, except when less than two commissioned officers are stationed at an establishment], who are appointed by the commanding officer. As is the case in Navy wage board procedure, representatives of the employees whose wages are being investigated are permitted to submit a list of establishments they wish to have included in the survey and to participate in the survey. . . . . .

The Panama Canal has approximately 1,270 employees on the "gold roll" who perform the work of skilled mechanics or artisans. The "gold roll" employees are American citizens. . . . Rates of compensation for "gold roll" mechanics and laborers are fixed by a wage board which is composed of the assistant engineer of maintenance and a representative selected by organized labor on the Isthmus. . . . . .

The Alaska Railroad [Department of the Interior] has approximately 500 employees engaged in railroad maintenance and operation. A great many skilled trades are represented as well as the usual

classes of positions, such as brakeman, fireman, and engineer, found in railroad operation. Wages for these employees are adjusted by the officers of the railroad in Alaska, after inquiry as to prevailing rates for similar employment in the United States. In some cases they are fixed through a process of collective agreement between the administrative officials of the railroad and the railroad employees' organizations.

With the possible exception of the War Department wage boards, these procedures involve a degree of employee participation commensurate with that of the British Industrial Court. Union representatives not only present their case, but sit with management officials in interpreting the data presented.

A further stage of negotiation is represented by the wage conferences of the Tennessee Valley Authority which has somewhat similar statutory requirements to pay prevailing rates to laborers and mechanics. The *Report Summarizing and Describing Negotiations of the Fourth Annual Wage Conference* thus describes the 1938 negotiations:[48]

The fourteen participating unions which comprise the Tennessee Valley Trades and Labor Council submitted a General Wage Brief, requesting revisions of the wage scale. The Council, after receiving requests from the individual local unions, summarized them in this brief, with general statements as to why the requested revisions should be accepted by the management of the Authority. Besides this general brief, most of the unions submitted individual briefs, stating the factual basis and other reasons for its claims to increased rates. These requests were considered in the Wage Conference along with management's survey in the final determination of rates recommended to the Board of Directors as the 1939 wage schedule.

The work of the conference this year was not confined solely to wage negotiations. Requests for the consideration of many related problems came from both the unions and management. In fact, the Personnel Department encouraged the submission of such requests this year so that all problems requiring joint consideration could be brought to the attention of the Conference. As a result, a large number of suggestions and miscellaneous requests were received from department heads and supervisors on the projects and from the unions. They included such matters as the work-

[48] P. 6. Included as an exhibit in the Civil Service Assembly Survey, Tennessee Valley Authority, p. 128.

week, starting signals, apprenticeship periods, retroactive classifications, descriptions of work under certain classifications, provisions for disabled employees, overtime for annual craft employees, etc. These requests were consolidated by the Personnel Department and submitted to the Wage Conference.

It is obvious from this review of the factors involved in determining prevailing rates of pay and the procedures followed in negotiating conclusions on wage rates and other related questions that there is a large and important area for genuine collective bargaining. . . . The provision in the TVA Act for recourse to an outside agency, the Secretary of Labor, to resolve questions of fact as to prevailing rates of pay upon which agreement cannot be reached further indicates the genuineness of collective bargaining engaged in.

Thus, the Tennessee Valley Authority wage conference procedure shows a tendency to develop into a comprehensive plan for cooperative formulation of all types of rules affecting trades and labor personnel. An instance of collective negotiation involving a similar channel for arbitration is provided in the Government Printing Office. Moreover, the rates paid by that agency are not required by statute to conform to prevailing rates:[49]

In the Printing Office a minimum of ninety cents an hour is set for time actually worked, but above that the Public Printer has authority to set wage scales in the public interest. In practice, the wages, including night and overtime compensation, are determined by "a conference between the Public Printer and a committee selected by the trade affected, and the rates and compensation so agreed upon shall become effective upon approval by the Joint Committee on Printing." In the event of disagreement, appeal may be taken to the Joint Committee [a committee of Congress] for final decision. The wages thus fixed may not be changed for a year.

The Bureau of Printing and Engraving has a comprehensive scheme for employee-management negotiation with some 1,500 employees of Local Union No. 105, National Federation of Federal Employees:[50]

[49] Agger, "The Government and Its Employees," *Yale Law Journal*, May 1938, p. 1112.

[50] Mosher and Kingsley, *Public Personnel Administration*, p. 491. It should be noted that wages in the Bureau are specified in its appropriations. A letter from Mr. Steward of the National Federation of Federal Employees indicates that his organization is the one to which reference is made.

Contact between the division chiefs, the director of the bureau, and the rank and file is brought about through these union committees, organized for each division. If an employee has either a suggestion or a grievance, it is taken to the division committee, which, after considering the matter, may take it up with the division chief. If this does not result in a satisfactory adjustment, the matter is referred to the union executive committee, representing all the divisions in the bureau. If the latter decides that the matter is one requiring further attention, it takes it up in writing with the director of the bureau.

The questions which have been handled in this way include almost every aspect of conditions of service—hours, promotions, treatment of individual cases, and so forth. Several questions of a purely administrative sort, involving the organization of the establishment, routing of work, and similar matters, have also been acted upon.

Special-Purpose Joint Committees

The use of temporary, special-purpose cooperating committees of employees and administrative officials has been a relatively common practice in the federal service and in local governments. As early as 1920 the Congressional Joint Commission on Reclassification of Salaries made successful use of this method in its survey of the Washington service:[51]

> The Commission sought the cooperation not only of administrative officials but also of the employees. . . . Officers of employees' organizations and individual representatives of large groups of unorganized employees were frequently invited into council with the Commission and members of its staff. By this means the employees were apprised of each step in the Commission's work. As a result the Commission secured splendid cooperation, not only from the administrative officers but also from the rank and file of the employees.

It has been noted that employees, organized and unorganized, were involved in the formulation of basic personnel relations policies of the Tennessee Valley Authority and the U. S. Department of Agriculture. A similar procedure was followed by the Social Security Board[52] and by the U. S. Housing Authority.

[51] *Report*, p. 152.
[52] Johnson, "Unionism in the Federal Service," p. 306.

The scope of subjects considered in temporary negotiations will be indicated in a later paragraph.

Great variations characterize the state, county, and municipal services in regard to employee-management conferences. The practice of mere consultation with employees by the civil service commission or personnel agency is extensive among the governments surveyed by the Civil Service Assembly.[53] This contrasts sharply with the dealings between Chicago craft unions and the municipal government. Writing of a union business agent who demanded a wage increase, Errant reports that he "dictated Council policy."[54]

These relations, regardless of the extent of employee influence, are haphazard and in many respects accidental. They depend almost entirely upon the initiative and aggressiveness of the employees' organizations. The greater participation of craft employees and unskilled workmen in determining their essential conditions of employment suggests that governmental practices in this regard are largely a concession to the prevailing practice of collective bargaining in closely corresponding private industries. Two recent observers of the federal service present a conclusion which might thus be applied with even greater force among local governments:[55]

> This approach to democratization of management [i.e., development of personnel policies in cooperation with employees] is much less well developed than other aspects of employee relations. Only a few agencies formally provide for joint discussions between employees and management on questions of policy affecting employee interests.

Techniques of Joint Conference

In lieu of extensive practical experience, the clear and fairly detailed recommendations of the staff of the President's Committee on Administrative Management offer the best summary

[53] Surveys of Alameda County, p. 182; Milwaukee County, p. 308; Seattle, p. 316; Tacoma, p. 164.

[54] Errant, "Trade Unionism in the Civil Service in Chicago" (complete thesis), p. 188. See also his interesting accounts of similar relations on pp. 198 ff.

[55] Corson and Smith, "Federal Policies on Employee Relations," *Personnel Journal*, October 1939, p. 156.

of procedural considerations. Point 4 of the outlined policy for federal employee-management relations reads:[56]

It should be the duty of administrative officials to recognize and confer in person or by representative with the duly constituted representatives of employees at their request on matters within the administrative discretion of such officials that relate to working conditions, hours of service, or compensation schedules. Administrative regulations relating to compensation, hours of service, and working conditions should be published in form readily accessible to employees. Except in cases of emergency, at least thirty (30) days published notice should be given of any proposed new regulation or proposed revision of any established regulation relating to compensation, hours of service, or working conditions, unless such new regulation or revised regulation is required by Executive order or by act of Congress. No new regulation or revised regulation relating to compensation, hours of service, or working conditions should be made final by administrative action until reasonable opportunity for conference has been accorded to the duly constituted representatives of the employees affected.

Moreover, Reeves and David suggest a procedure by which the views of employee representatives may be incorporated in the process of rule making for the federal service. The following quotation includes only steps relevant to employee participation:[57]

After preliminary approval by the President the proposed amendment [to civil service rules] should be published in draft form by the central personnel agency. Copies should be sent to the members of the Civil Service Board, to the heads of all establishments, to organizations of employees, and to such other interested organizations or individuals as may request the service. . . .

Public hearings should be scheduled by the head of the central personnel agency and should be held after appropriate notice to interested persons and organizations. The results of official inquiries and public hearings should be digested and presented to the Council of Personnel Administration for its consideration. . . . The Chief Executive should then take such action as may seem appropriate to him. In any case involving major conflicts of opinion between administrative agencies or between administrative officials and employees, it is probable that the matter should receive consideration by the Cabinet. . . .

[56] Reeves and David, *Personnel Administration in the Federal Service*, p. 55.
[57] *Ibid.*, pp. 50–51.

Provision should . . . be made for the careful consideration of proposed amendments of the rules that originate in representative organizations of employees or in other responsible nonadministrative sources. Meritorious informal suggestions should be presented to the Council of Personnel Administration for study, followed by the procedure outlined above. Duly constituted representatives of employees that appear to represent a majority of the employees affected by any particular matter, or even a substantial minority interest, should be authorized to present formal recommendations to the head of the central personnel agency. . . .

Since, as has been noted, Reeves and David regard the majority rule as essential in dealing with organized employees, they make their recommendations regarding machinery for joint conference contingent upon the designation of employee representatives under this principle:[58]

At present, it is questionable whether any individual, organization, or cooperating group of organizations merits recognition as the duly constituted representative of all employees in the entire Federal service, or even of any interdepartmental group large enough to warrant the establishment of a national joint conference procedure. This condition may persist for some time, although the present cleavage of the employee groups into dual organizations is unlikely to continue indefinitely if clear recognition is given to the principle of majority rule.

No joint conference procedure is likely to be successful that does not recognize the principle of majority rule as a premise. It must therefore be concluded that at present no recommendation can be made for the establishment of a national joint conference procedure in the Federal service, although a national joint conference procedure may reasonably develop out of the proposed procedure for notice and hearing by the central personnel agency.

The problem is much more simple, however, in the individual agencies and establishments. In many establishments, responsible organizations of employees exist and are unquestionably representative of a majority of the employees within appropriate groups. A basis for the establishment of joint conferences to consider problems of mutual interest has been developed through informal contacts and conferences. The utilization of the joint conference procedure should therefore be stimulated first within individual establishments. It should be expanded as rapidly as both groups, administrative and employee, are prepared to respond in a responsi-

[58] *Ibid.*, p. 51.

ble manner. If properly organized, conferences between groups of administrators and employees or their duly constituted representatives should be productive of considerable information of importance to personnel administration, even though conducted on a limited scale.

Difficulties involved in obtaining representatives of a majority of employees are doubtless common in local jurisdictions. The suggestion that joint conferences be developed by a process of experiment and gradual extention therefore seems to have general validity.

To some extent, the program of employee representation, which deals with employees en masse without recognition of their independent organizations, offers an alternative to the joint conference program as Reeves and David have outlined it. Employee representation in this "definition excludes collective bargaining between the management and the outside representatives of a labor union."[59] It would, however, involve as difficult problems as the designation of the properly constituted union representative might present under the procedure advocated by Reeves and David.

Mosher and Kingsley present these difficulties:[60]

In the public services particularly, the task of drawing the line between management and staff is not an easy one. All employees are equally servants of the State, although a rather clear distinction can be made between the political chiefs and the permanent group. Such a division is not entirely adequate for purposes of joint representation, however, and the line has to be drawn somewhat arbitrarily between the higher administrative grades and the rest of the staff.

Among the considerations that enter into the determination of the size of the body, two general principles stand out. First, the committee or council must be sufficiently large to provide adequate representation and, second, it must be sufficiently small as to be wieldy and to facilitate group decisions. In a large and diverse organization the joint application of these two principles presents difficulties, though not insuperable ones. A fundamental question affecting size and composition is in regard to the units of representation. If a plan is being drafted for an entire governmental juris-

[59] Mosher and Kingsley, *Public Personnel Administration,* p. 482.
[60] *Loc. cit.*

diction or for a large department, should the unit of representation be the department in the one case and the division or branch or section in the other, or should it be functional groups of employees, such as railway mail clerks, postmasters, and so on? . . .

Relation of Unions to Joint Policy Formation

The preceding discussion raises the question of whether union organization is prerequisite to successful employee-management participation in personnel policy formation. This question is already answered for those administrators who accept the program of dealing with unions as the desirable approach to group problems. Without taking this point of view, however, there seem to be particular advantages in organized dealing in this phase of employee relationships:[61]

The dangers of domination by the management that are inherent in every system of conference machinery set up by the management itself has led some to take the view that the free and authoritative expression of employees' opinions can be obtained only when the management, instead of itself setting up conference machinery by administrative action, enters into conference arrangements with employees' organizations or unions already formed independently of the management. The outstanding respect in which an arrangement of this kind is likely to be superior to a system set up by the management is that the independent associations or unions of employees may have, and usually do have, leaders who are not themselves employed in the particular organization unit, or perhaps in the service at all, and who, therefore, can meet the executives in conference with greater freedom and boldness on behalf of the employees. It is believed, however, that this view has far more validity in the field of private industry than in the federal service.

Lewis Mayers has thus presented the argument for conferences with organized employees without clearly accepting it because in the federal service he assumed a "cooperative attitude on the part of the officer in charge." Whether this is a fair assumption throughout the supervisory staff of the national government is a subject for debate,[62] and, as we have seen,

[61] Mayers, *The Federal Service*, pp. 571–72.

[62] Reeves and David, *Personnel Administration in the Federal Service*, p. 54: "The employee organizations frequently encounter the passive, if not the active opposition of administrative officials."

sympathy for employee aims can be counted on generally with less assurance among the officials of local governments. Moreover, Mayers' later sentence would still be true: "Up to the present time the employees' organizations . . . have furnished the chief medium of conference between employees and management in the federal service."[63]

Eldon L. Johnson takes a more positive view, as does Ordway Tead:[64]

> Representation machinery would be particularly useful in handling general grievances, involving a great number of employees. In such cases, organized employee action would be imperative. It is at this point that the whole question of representation is related to this study of unionism. It is not conceivable that representation could function without some kind of employee organization. British experience with the Whitley system is illustrative.

The relation of the unions to the Whitley council plan in England is developed more fully by Leonard White.[65] It is of sufficient importance as a model to warrant close attention:

> From the point of view of the Whitley system, the associations and unions are the source of staff-side representation and the arbiters of staff-side views; from the point of view of the associations and trade-unions, the Whitley system is an alternative approach to the Treasury and heads of departments. Attention has already been called to the effect of the Whitley system in stimulating organization, especially in the higher grades; organization in turn has furnished the motive power for the joint councils. . . .
>
> Organization is therefore essential to the Whitley system, but the Whitley system is not essential to organization. . . .
>
> A new channel of negotiation had opened up, but all the old channels of service agitation and action remained wide open as well.

Nevertheless, in the absence of representative unions of employees, administrative officials may still profit from the views of employees, expressed more loosely through ballots or consultation of individuals:[66]

[63] *The Federal Service,* p. 573.
[64] Johnson, "Unionism in the Federal Service," p. 292. See also Tead, "The Merit System in a Democracy," *Proceedings,* Civil Service Assembly, 1938, p. 74.
[65] *Whitley Councils in the British Civil Service,* pp. 275–77.
[66] Letter of Roy F. Hendrickson to Gordon R. Clapp, February 5, 1940.

In the Department of Agriculture, policy questions of major importance in which employees were especially concerned have been put to a vote of all Washington employees, or random samplings have been taken from the entire group. In the absence of a more practical method, we feel that the above procedure allows as full a participation as possible.

Subjects for Negotiation

A primary condition of success in joint conference procedures is the clear identification of their subject matter:[67]

The trouble with all such effort to date is not the fact of joint dealing, or even any alleged aggressiveness or unreasonableness of employee groups. The trouble is that administrators have not been willing to identify the points of possible friction on which conference therefore becomes important.

But while the vitality of the joint procedure depends on facing major issues, the administrative discretion of the public executive is subject to statutory limitations. Do these limitations so circumscribe the competence of joint conferences as to explain their infrequent emergence in the public service? The familiar statement of President Roosevelt in his letter to Luther C. Steward, President of the National Federation of Federal Employees is relevant, even though it does not furnish a specific answer.[68]

All Government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with Government employee organizations.

The employer is the whole people, who speak by means of laws enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many instances restricted, by laws which establish policies, procedures, or rules in personnel matters.

The present debate over the extent of subjects capable of negotiation in the public service is a lively one. A special com-

[67] Tead, "The Merit System in a Democracy," *Proceedings*, Civil Service Assembly, 1938, p. 74.

[68] *New York Times*, September 5, 1937, p. 14.

mittee of the National Civil Service Reform League makes the following pronouncement:[69]

> Merit system laws provide a method of employment by public competition, open to all qualified citizens, for salary and wage schedules, hours of work, lines of promotion, leaves of absence, vacations, tenure and retirement benefits. These statutory requirements cannot be altered by "bargaining" between employes and their departmental officers, but can be amended only by authorized representatives of the people under our democratic process. Appointing officials have no authority, by bargaining, to bind appropriating or legislative bodies to any contract not authorized by law. . . .
>
> Where an adequate merit system does not exist in the public service the remedy lies in proper merit system legislation.

On the other hand, Macmahon[70] argues with reference to municipal subway workers in New York that such a position must assume universally conscientious and progressive administration of civil service principles on the one hand, or minute statutory restrictions on the other. He indicates that whatever the merits of the case, civil service status apparently has not satisfied the employees' desires for security and self-expression in this instance.

> First, however good in itself, it [civil service] safeguards only the processes of recruitment and promotion and to some extent dismissal. It does not affect the major conditions of employment, which have to do with wages, hours, working conditions, and countless variations necessary in their adjustment in a large organization. So much is evident. Second, say union men, civil service status is no protection against being dropped, for positions may be abolished. Third, complaint is heard that it interferes with the seniority so precious in the tradition of railroading.

There seems to be an increasing realization of potentialities for negotiation within administrative powers on the part of the sympathetic observers of employee organizations. "Major questions such as basic pay and retirement may not be fit subjects

[69] Special Committee on Government Employe Relationships, National Civil Service Reform League, *Employer and Employe Relationships in Government* (1941), p. 4.

[70] Macmahon, "The New York City Transit System: Public Ownership, Civil Service, and Collective Bargaining," *Political Science Quarterly*, June 1941, p. 193.

for bargaining in the restricted sense; but day-to-day administration within the discretion granted by Congress, intimately affecting the details of working conditions and the sources of morale, are quite amenable to collective bargaining and continuous conciliation."[71]

The answer to these general arguments is not likely to be found in broad terms applicable to all governmental agencies from the small municipality on one extreme to, say, the Inland Waterways Corporation on the other. The answer should take into account the trend of "expansion of discretionary power vested in administrative officers" which Leonard D. White lists among the century's most significant changes in the administrative structure of the nation.[72]

The significance of administrative questions to employee groups is suggested by a sampling of the number and variety of problems brought before the administrators of a federal agency by the employees of a single bureau of that agency.

The following list is reported by the Bureau of Old-Age Insurance of the Social Security Board:[73]

1. The type of materials that would be placed in the personnel folders; whether individual employees should be contacted before any unfavorable items are added to their own file; and the particular circumstances under which employee representatives might, or might not, be permitted to consult these folders.
2. Mechanical difficulties accompanying installation of thermometers in office buildings; the temperature that would occasion early closing; whether the humidity should be taken into consideration; and time spent by employees to tell supervisors about the temperature readings.
3. Arrangements proposed for hearing disputes over an employee's efficiency rating; meaning of the terms used in rating efficiency; and particular reasons that justify lowering individual employee's ratings.
4. The hours during which unions would be permitted to hold meetings, hear employee complaints, and distribute literature.

[71] Johnson, "Unionism in the Federal Service," p. 12. See the virtually identical statement by Agger, "The Government and Its Employees," *Yale Law Journal*, May 1938, p. 1133.

[72] *Introduction to the Study of Public Administration*, p. 27.

[73] *Personnel Journal*, October 1939, pp. 156–57.

5. Organization of training courses to acquaint all employees with content of amendments to Social Security Act.

6. Whether certain divisions would be housed in the office building under construction in Washington, D. C., and the approximate date whereon the new quarters could be occupied.

7. The need for additional nursing service for employees.

8. Tentative placement of new appointees, pending outcome of physical examinations, when the Board must rapidly expand its personnel.

9. The extent to which reasonable notice could be provided prior to dismissal.

10. Approaching expiration of certain temporary appointments; whether some of the employees affected could be placed with other agencies; the possibility of retaining employees pending result of civil service examinations; and proposed establishment of a preferential reemployment list.

11. Existing fire hazards and conduct of fire drills.

12. Constant overtime in certain sections, and requests for compensatory time off.

13. The ventilation and lighting of basement rooms; whether the Board should initiate building surveys of these matters.

14. Factors considered when granting promotions; publication of vacancies; whether preference could be given Board employees over outside candidates when new positions were being filled; and provision of equal opportunity for advancement.

15. The number of salary raises being given; when such raises would become effective, and their distribution among employees of various grades.

16. Factors influencing assignments to day or night shifts; methods of determining employee preferences; and the time of the week during which change between shifts might best be made.

Ordway Tead has more than once advocated an extension of collective consultation into what have been considered characteristic prerogatives of management. In discussing the budgetary functions of management he wrote:[74]

An appreciable part of the budget has, of course, to do with salaries of public employees. And I want to hazard the rather unusual thought that so far as this phase of budget making is concerned, it has to be integrated far more closely with employee thinking than is now the case. Indeed, I shall dare to suggest that the whole process of budget formulation will eventually start in con-

[74] *New Adventures in Democracy*, p. 107.

ference with members of respective unions in agencies in the governmental employ. I understand full well the limits within which position classification and salary determination take place. But I still suggest that in any governmental employment where there is sufficient morale to have the public interest closely at heart, the shaping of the budget should be more democratically conceived.

But the impulse in this direction must originate, in his view, with the administrator or his major staff:[75]

We cannot expect, with new unions coming in, to get much responsibility or initiative immediately on their part on problems that have to do with more efficient productivity. Their first concern has naturally to be to build up their own organizations to be strong, articulate, and with adequate local and regional officers and leaders. Initiative on these matters has got to come from management.

Tead also suggests that the subjects for joint consultation be extended to pending legislation:[76]

Obviously you cannot have joint conference dealings of the familiar sort between public workers and legislative bodies. Yet so determinative is the role of such legislative bodies that I am prepared to affirm that it should be openly recognized as sensible and wise practice that in the framing of budgets, and of basic mandates for departmental operation, the appropriate committees of the legislative bodies—Congress, state legislatures, boards of aldermen, etc.—might be required to call in the employee groups to voice their views. Such efforts are not to be stigmatized as "pressure politics," logrolling, or insubordination. They are rather the carrying of the idea of joint conference deliberation back to the fountainhead of authority. And approached in this open and explicit manner, the relative claims of different groups can be aired, balanced, and given weight in final decisions.

But this type of consultation is unlike that carried on within the administrative unit: before the legislature the employee group has no special stature distinguishing it from the civic association or taxpayer's league.

Authority in Joint Conferences

A further question arises concerning the administrator's delegation of authority in joint conferences. There is no funda-

[75] "Trends in Collective Bargaining as Affecting Personnel Management," in *Collective Bargaining for Today and Tomorrow* (New York: Harper and Bros., 1937), p. 137.

[76] *New Adventures in Democracy*, p. 126.

mental problem involved in the process of consultation by the administrator.[77] The administrator's relation to the advisory employee council involves no greater diffusion of responsibility than his dealings with commissions of lay citizens offering professional advice. The latter relationship is apparently a development of increasing importance: "On every hand the government is beginning, tentatively, indeed, and without evident understanding of its ultimate significance, to associate the private citizen with the business of administration."[78]

But a larger question is at once raised if, as is not now the case, a joint conference is empowered to take action unreviewed by the head of the governmental agency. Under no circumstances can the legislature permanently abandon its constitutional responsibility to govern the public service in all of its aspects. Its ultimate authority must always remain. "On the other hand, there is nothing to prevent the legislative body from lodging specific personnel functions in such an agency [i.e., a representative committee], just as it has done in the case of the civil service commission. Although, in theory, such an agency might have no final authority, in practice the reverse might be true. Or again, the agreements, or recommendations, or decisions, of such a representative body as that envisaged here might be accepted by the government without any formal statutory provisions concerning it. The fact remains, however, that the State always possesses a veto authority."[79] Exactly this type of recognition has been extended to an arbitration board "set up by contract and without any delegation of state power, between the Boston Elevated Railway system (a private property publicly operated) and the union of its operating employees."[80] This case, of course, is on the fringe of government activity.

An instructive inquiry may be made into the expressed and actual authority of the Whitley councils. The Whitley constitution contains these words: "The decisions of the council shall

[77] Feldman, *Personnel Program for the Federal Civil Service,* p. 232.
[78] Laski, *Authority in the Modern State,* p. 382.
[79] Mosher and Kingsley, *Public Personnel Administration,* p. 484.
[80] Tully Nettleton, "The Danger of a Strike That Hits the Public," in *Public Utilities Fortnightly,* October 28, 1937, p. 529.

be arrived at by agreement between the two sides, shall be signed by the Chairman and Vice-Chairman, shall be reported to the cabinet, and shall thereupon become operative."[81] White proceeds, however, to recount the interpretation of this sentence in the following language:[82]

This language seemed to imply that the Government was bound to respect the decisions of the Whitley Council, on the assumption that the official side would agree to nothing that had not been directly or indirectly approved by the Cabinet. This implication, however, was a little too strong, and an agreed interpretation of the language was reached on October 24, 1921, in these terms:

> The establishment of Whitley Councils cannot relieve the Government of any part of its responsibility to Parliament, and Ministers and Heads of Departments acting under the general or specific authority of Ministers must take such action as may be required in any case in the public interest. This condition is inherent in the constitutional doctrines of Parliamentary Government and Ministerial responsibility, and Ministers can neither waive nor escape it.
>
> It follows from this constitutional principle that while acceptance of the Whitley System as regards the Civil Service implies an intention to make the fullest possible use of Whitley procedure, the Government has not surrendered, and cannot surrender, its liberty of action in the exercise of its authority and the discharge of its responsibilities in the public interest.

In point of fact, there have been few instances in which the Government has fallen back on this reserved constitutional position.

Collective Bargaining

The parallel which will be drawn, in opinion if not in fact, between public and private employer-employee relations makes it important to explore the meaning of the term "collective bargaining" in the governmental realm. President Roosevelt wrote, in the letter already quoted, that "All government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into a public service." A month later, the president of the National Federation of Federal Employees to whom this letter was addressed expressed the same conviction in stronger words:[83]

There must be a definite recognition of the fact that in public service, unlike private employment, there can be no such thing

[81] White, *The Civil Service in the Modern State*, p. 27.
[82] White, *Whitley Councils in the British Civil Service*, pp. 18–19.
[83] Luther C. Steward, *Proceedings*, Civil Service Assembly, 1937, p. 68.

as collective bargaining. Negotiations, yes, conference, yes; presentation of group or individual cases for adjustment of compensation or other condition, and the very important legislative field where the employees' viewpoint may be presented in connection with legislative proposals to improve employee conditions and in opposition to proposals which they feel would be detrimental to their interests.

On the other hand, the President subsequently commended the experience of a federal agency which has clearly announced its policy of collective bargaining as incorporated in a signed agreement. On this occasion he said, "Collective bargaining and efficiency have gone hand in hand. It is noteworthy that the splendid new agreement between organized labor and the Tennessee Valley Authority begins with the words 'The public interest in an undertaking such as the TVA always being paramount . . .'"[84]

This form of presidential endorsement of a signed agreement relationship in a government agency cannot necessarily be interpreted as a general endorsement of collective bargaining in the public service. Its significance as endorsement of collective bargaining in a specific case, however, should not be overlooked. The question warrants further analysis. H. S. Person offers a threefold definition of bargaining upon which the analysis can be based:[85]

What does the word bargaining imply? It implies that there is power on both sides. It also implies that there is self-interest on both sides, and that power is being applied on each side for the preservation or promotion of its self-interest. It also implies the necessity for agreement on both sides. Unless an agreement is consummated, the meaning of the term bargaining is not carried out.

[84] Address dedicating the Chickamauga Dam of the Tennessee Valley Authority, *New York Times*, September 3, 1940, p. 1. The TVA recognized the purpose of collective bargaining in its Employee Relationship Policy, adopted in 1935. It had carried on collective bargaining in the usual sense with its trades and labor employees for five years. The President referred specifically to the general agreement, signed on August 6, 1940, which formalized these relationships of the Authority with its trades and labor employees as represented by some fifteen unions affiliated with the A F of L. See also David E. Lilienthal and Robert H. Marquis, "The Conduct of Business Enterprises by the Federal Government," *Harvard Law Review*, February 1941, p. 565.

[85] "The Crisis in Leadership: Government, Industry, Labor," in *Collective Bargaining for Today and Tomorrow*, p. 149.

When the three elements contained in Person's definition—power, self-interest, and agreement—are applied to the hypothesis of collective bargaining in the public service, they call for answers to three questions: Must government employees negotiate with less ultimate compulsion than is available to workers in private enterprise? Does each side have distinct self-interests? Can agreements be consummated to which the government is a party? At least partial answers to these questions are as follows:

1. Must government employees negotiate with less ultimate compulsion than is available to workers in private enterprise?

On this point Louis Mayers has this to say:[86]

> [In private industry] any plan for conference with employees involves to a greater or less degree the actual participation by the employees in the making of the decision, the degree of participation being determined by the actual strength of the employees and their ability to compel acceptance of their demands if it is necessary. In the public service the same situation hardly exists except perhaps in the industrial establishments in which the questions raised by conference committees are in a great many cases not peculiar to the government establishment but are general trade questions affecting also those employed in that trade in private industry. In the non-industrial branches of the service . . . the chances that the employees could or would strike are so slight that, for practical purposes, they may be neglected by the administrative officer. In these branches of the service, therefore, mere representation of the employees carries with it no implication of actual participation in the management. If it is desired to award any such participation to the employee, it must be done expressly.

Nevertheless, as has been elaborated in the second chapter, tactics of varying degrees of pressure short of the strike have been used by public employee unions. Whatever their theoretical limitations, no one can doubt after examining such a survey as James D. Errant made of Chicago, that organized employees may in fact have coercive powers.[87] The distinction appears to

[86] Mayers, *The Federal Service*, pp. 570–71.

[87] "Trade Unionism in the Civil Service of Chicago" (complete thesis), pp. 184–88. Errant points out that the union in question exerted greater pressure upon the municipal government than upon private contractors. This case is, of course, exceptional in many ways.

be one of degree of possible force and of the frequency of its exertion. The remoteness of the possibility of a strike does not destroy its significance as an element in collective bargaining. Macmahon has observed that a union's case for collective bargaining is at heart a paradox.[88]

Strikes have been and will be avoided by effective collective bargaining, made possible in turn by union recognition, which depends upon the bare possibility of strikes although these are avoided by the very process that the possibility engenders.

2. Does each side have distinct self-interests?

A convincing statement is made on this point by Johnson:[89]

The conception of administration as a continuous process is a hierarchy, permeated from top to bottom with leadership, and from bottom to top with "followership." This free interchange and indistinguishability is held to be a characteristic of a career service. Every supervisor is an employee and practically every employee is a supervisor. Hence, according to this view, the recognition of official and employee sides, particularly their formal recognition through representation plans, means an arbitrary and fictitious division of a natural unity. . . . Since neither side is motivated solely by altruism nor guided by absolute Platonic wisdom, common problems are not seen alike. Not coming to the scene with the same experience, the two sides do not go away with the same image. If interests are really identical, they are not so perceived; and until so perceived, they cannot form the basis of action. It would be futile, indeed, to maintain that the official and employee sides are always clearly distinguishable, either physically or in convictions, but a superficial examination of opinions at the top and at the bottom of any large organization will indicate points of view sufficiently different, if not contradictory, to warrant consultation between those who have the authority to make the major decisions and those who have the obligation to abide thereby.

In the view of Friedrich and Cole, the diversity of interest is basic. In their words: "The human desire of the employee to improve his financial status cannot be reconciled with the desire of governments to limit their expenditures in so far as possible."[90]

[88] Macmahon, "The New York City Transit System . . . ," *Political Science Quarterly*, June 1941, p. 197.
[89] "Unionism in the Federal Service," pp. 264–65.
[90] *Responsible Bureaucracy*, p. 62.

But the object of collective bargaining, granting that the phrase is applicable, is to reconcile, not to accentuate, these recognized differences. The opportunity to carry out this identification of factional interests with a common program is one of the basic opportunities of governmental enterprise:[91]

> Everything which can be done to heighten the genuine sense of identity of interest between governments and their workers should be done. The area of such identity is wider and deeper as respects the employees of a democratic government than it is as between private employers and their workers. The purpose of public service stands as primary and as appealing psychologically, economically and spiritually to basic desires of citizenworkers. But because this is true and because of the importance of stressing this unity of aim, it is the more important also that the special and more limited rights and concerns of employees be taken fullest account of.

That bargaining is not incompatible with cooperation in the broad sense is stated clearly by a counselor to industrial management:[92]

> I believe that we must grasp the idea that where cooperation is to be carried on with vigor, it must get this vigor through partisanship, and not at its expense. Partisanship does not mean, however, inability to see the other fellow's side of the case. Cooperation means integration, but not submission.

Tead has stressed the responsibility of management to induce such an attitude and program of cooperation among employee organizations:[93]

> Past experience with collective bargaining leads fairly to the conclusion that government executives can have a great deal to do with determining whether the mood and atmosphere in which public collective dealing takes place is at a conflict and grievance level or at a level of active consent, shared responsibility and creative interest. It is only natural that group organization among employees will, when it approaches management, quickly sense and take the color of its own attitude from the attitude of the man-

[91] Tead, *New Adventures in Democracy*, p. 125.
[92] Francis Goodell, "Joint Research Under a Collective Bargaining Agreement," in *Collective Bargaining for Today and Tomorrow*, pp. 65–66.
[93] *New Adventures in Democracy*, pp. 109–10.

agement people to whom it comes. If managers are bellicose, hostile and reluctant to go into joint conference, it is almost a foregone conclusion that the atmosphere will be charged with conflict. But if the executives at the start go more than half-way to welcome group conference and try to stress throughout the dealings how creative benefits for effectiveness in total operation can be achieved, the atmosphere and the results will be quite different.

3. Can agreements be consummated to which the government is a party?

This is discussed in a succeeding section of this chapter. The finding can be stated in advance that such agreements are possible but must be subject to legislative veto and modification.

The conclusion is that in its minimal sense, collective bargaining is possible in government service. It is subject to limitations not found in private employment. These are perhaps sufficiently determinative to justify the President's pronouncement. It would appear, however, that these limitations do not render it impossible for the administrators of government agencies to obtain the benefits of staff participation in policy formation to a far greater degree than is now typical.[94]

Benefits of Employee Participation

The use of joint conferences in dealing with proposed regulations affecting personnel is at best a relatively cumbersome procedure. It has been urged by recent writers, however, who feel that it involves potentialities for improved service which are of more than compensating significance.

The most immediate benefit which is usually claimed to accrue to the management of an enterprise is increased respect on the part of employees for rules which they have helped to draft.

If it is a matter of policy that internal administrative rules and regulations, particularly those relative to personnel, are expected to emanate from the combined and collective judgments of the various levels of the organization pyramid, including rank-and-file employees, the resulting policies usually force a fair degree of compliance by virtue of the manner in which they were formulated.

[94] Mosher and Kingsley, *Public Personnel Administration*, p. 492.

Compliance is then not dependent solely upon the superior's enforcement of it, for group and individual discipline and an inherent sense of fair play require individuals to conform to the rules of the game in which they had a voice during formulation.[95]

This argument, without taking account of the quality of the resulting policy, contends that there is value in staff participation purely as a democratic method; or in the words of other observers:[96]

To repeat here a fundamental if somewhat platitudinous truth, a group of human beings is not willing, except in certain cases of extreme emergency, to be treated like dumb animals. Whether or not their material "interests" are taken care of a little better or less well does not matter to them in comparison with whether they feel that they have had a chance to participate in deciding what those material interests are.

This has been stressed repeatedly by Reeves and David:[97]

Conceivably the same expressions of policy may emerge from the use of either the autocratic or the democratic technique. But the difference in participation as between the two methods is frequently the difference between an esprit de corps that will show brilliantly under duress and in emergency, and a low morale that will do a mediocre job no matter how easy the task may be.

It has already been suggested that the failure to take advantage of the techniques of cooperation with employee groups lies back of many grievances. On this point we have the following testimony of a bureau head who had unusually long experience in the federal service:[98]

This shutting the door, this attitude that management is a cabalistic, mysterious science born of authority and shrouded in mystery; this idea of the divine right of management is . . . one of the major sources of complaints and conflicts.

The Special Committee of the National Civil Service Reform League, in its report on *Employer and Employe Relationships in Government,* stated that[99]

[95] Reeves and David, *Personnel Administration in the Federal Service,* p. 51.
[96] Friedrich and Cole, *Responsible Bureaucracy,* p. 88.
[97] *Personnel Administration in the Federal Service,* p. 51.
[98] F. A. Silcox, "Complaints," in *Elements of Personnel Administration* (U. S. Department of Agriculture Graduate School, 1935), Lecture VIII, p. 70.
[99] Pp. 4–5.

government employes do have from time to time, and under varying circumstances, substantial problems related to *administration* of employment laws and regulations affecting compensation, hours and conditions of work, promotions and discipline, for the prevention and solution of which problems there should be adequate machinery established in the public service.

Organizations of governmental employes, recognized and received in conferences by management, and speaking through representatives of the employes' own choosing, have already contributed much to cooperative development of labor and management policies and to the creation of machinery to prevent or alleviate grievances.

The closure of potential channels for negotiation within the governmental agency has naturally influenced organized employees to turn to legislative relief or to tactics grounded in opposition to administrative authorities:[100]

The Congress has very seldom denied the right of employees and other citizens to be heard, whereas officials have sometimes denied the right of employees to be heard, in customary practice have usually disregarded it, and only in rare instances have attempted to maintain a cordial and cooperative relationship with representative organizations of employees. The results are apparent in the activities of the organizations and in the relatively low morale that prevails throughout large parts of the service.

That strikes have occurred in public employment for lack of, and not as a consequence of, collective bargaining in the government service is a major conclusion of Ziskind's study, *One Thousand Strikes of Government Employees.* He writes:[101]

The stories behind these causes of government strikes indicate that labor relations in government employment would be greatly improved by the widespread adoption of some form of collective bargaining. . . . Labor problems have arisen not only because of the incompetence or the obdurateness of culpable officials, but more often because of the neglect or mistakes of well-meaning officials. . . . The private deliberations of personnel officers and the conferences with grievance committees on isolated cases have not been sufficient. They have lacked the systematic and comprehensive efficiency of well established trade-union negotiations. Periodic collective bargaining would make possible a regularly planned approach to all existing problems before the development of critical

[100] Reeves and David, *Personnel Administration in the Federal Service,* p. 52.
[101] P. 201.

situations. It would afford both officials and employees a customary technique for reaching agreements. It would arouse in the workers a feeling of responsibility for their terms of employment and a general respect for their working agreements.

The substance of governmental personnel policies also has, according to Reeves and David, much to gain from employee contributions.[102]

> Throughout the Federal service there are many inequitable variations in compensation levels, in hours of duty, and in working conditions generally—variations that bear no reasonable relationship to the duties and responsibilities of employees, to their qualifications, or to the needs of the service as a whole. Variations of these types are not only unjust to employees, but give rise to much of the discontent, unrest, and inefficiency that exist in parts of the service. . . .
>
> The inarticulateness of the mass of employees is [among other conditions] a major cause, and also applies with special force to conditions in the field service.

Tead has suggested the further possibility that questions which strongly affect morale, but which are new to public personnel policy, may be broached through the medium of collective bargaining: He writes:[103]

> Efficiency in governmental work at the level of economy of methods requires as its first condition the sharing by employees of the definition of all . . . work standards on a basis of collective consent.
>
> Only in this way, for example, can we bring into the open and get clarified the question of whether standards of efficiency should be in any ways different in the public service from those in private employment. Has public employment certain distinctive responsibilities for less able workers or for the aging workers? And can public employment have sufficiently flexible policies about incentives to encourage to the full the obviously more able workers? We shall come to grips with these crucial questions only as we face them in collaborative conference of managers and workers.

The Enunciation of Employee Relationship Policies

Consideration of employee-management cooperation for dealing with matters of mutual interest leads to the following questions:

[102] *Personnel Administration in the Federal Service,* p. 56.
[103] *New Adventures in Democracy,* pp. 110–11.

1. Should these relationships be embodied in informal understandings or stated in writing?
2. What ought to be the scope and the content of any understandings regarding these relationships?
3. Should conclusions reached be stated as management policies or as agreements with employees?

Each of these questions will be discussed individually in the sections that follow.

Desirability of Stated Policies

It must be noted, initially, that the public service functions largely in the absence of stated rules of work and employment. The Chairman of the Federal Council of Personnel Administration thus characterizes the situation in the national government: "At present there is a great difference in the methods of the departments and agencies about grievances and employee relations, a difference amounting to a chaos of plans, some perhaps going too far, some not far enough. A uniform application, after careful study and hearings by the council, is indicated as needed in the emergency. The situation is acute enough so that something should be done soon."[104]

States, counties, and municipalities are more difficult to characterize in this respect. Few, if any, standards exist in the numerous jurisdictions without merit personnel systems.[105] If one may regard the governments surveyed by the Civil Service Assembly as typical of the civil service jurisdictions, policies regarding employee relations are seldom explicit. Civil service laws and ordinances deal frequently with such subjects as tenure and political activity[106] which indirectly affect employee relations but they are silent on employee-management relationships

[104] Frederick M. Davenport, "Why Personnel Offices Need More Funds," *Personnel Administration*, September 1939, pp. 7–8. Similar observations have been made by Richard Sasuly and Charles Flato, "The CIO on Capitol Hill," *New Republic*, July 28, 1937, p. 329; and by Altmeyer, "The Scope of Departmental Personnel Activities," *The Annals*, January 1937, p. 190.

[105] A. S. Zander, President of the American Federation of State, County, and Municipal Employees, expressed serious concern with the paucity of stated personnel policies in local governments in commenting on this report.

[106] Beyer, "Citizenship in the Municipal Service," in *Problems of the American Public Service*, p. 141, indicates the need for developing clear and standard policies in regard to other conditions of employment.

as such. At the same time few official statements have been discovered which define administrative attitudes toward employee organization and related questions.

It is encouraging to note accelerated progress in this regard during the last two years. In the *Municipal Yearbook* for 1939, Belsley lists five agencies in which "formal employee relations policies were adopted during 1938."[107] Statements of employee relations policy have recently been promulgated by ten federal agencies.[108] There is an unmistakable tendency both to formalize and to disseminate these statements.

The advantages of a stated policy, circulated to the entire staff, were listed in a description of the Farm Credit Administration policy:[109]

1. A clear presentation of policy is needed for the guidance of executives and supervisors, for it is they who are responsible for direct dealings with employees and for making policies effective during the regular course of work.
2. It provides employees with an understanding of the policies which guide the management in its relations with employees.
3. It serves to build and maintain morale and employee efficiency. An organization which has fair and reasonable practices in dealing with employees can well afford to publish and emphasize this fact. Realization by employees that the organization of which they are a part follows progressive personnel policies provides a positive incentive toward efficient service, builds *esprit de corps,* and decreases the likelihood that capable employees will leave the agency.
4. Recruiting is aided by the outside dissemination of this type of statement, for the best qualified people are attracted to an organization that is known to provide an opportunity for personal development and to base its personnel actions on efficiency and merit.

There is an additional advantage implicit in those listed. While systematization of employee relations may require a great deal of time on the part of the personnel staff, it normally saves the time of the top administrator, who must otherwise deal with employee delegations himself, or court their antagonism. A

[107] "Personnel Administration," pp. 14–15.
[108] Corson and Smith, "Federal Policies on Employee Relations," *Personnel Journal,* October 1939, p. 152.
[109] Milton Hall and H. A. MacKenzie, "Telling Employees About Personnel Policy," *Personnel Administration,* September 1939, p. 10.

danger of lack of formalization was vividly demonstrated in the renowned Donovan case, where the outside arbitrator found that "General Johnson's objection was not to the union, but to being bothered by the union's delegations."[110]

These values seem so important that there seems to be no further need to argue the question of stated versus tacit policies. What, however, should be the scope and content of the formal employee relationship policy?

Contents of Employee Relationship Policies

In suggesting the normal scope of the employee relationship policy, we have two principal guides. The first is the detailed recommendation of Reeves and David to which frequent previous references have been made. They outline a policy which provides:[111]

1. Right of organization and representation;
2. Positive prohibition of discrimination for union membership or nonmembership;
3. Majority determination of the employee representative;
4. Conference with management upon request of employees; notice and conference prior to modification of personnel rules;
5. Unrestricted power of regulation by executive order after notice and hearing to interested parties; and
6. Presentation of grievances to supervisors by employees or their representatives.

The provisions of any policy, of course, must be limited to the area of administrative discretion admissible under the law. The points listed above have previously been discussed with the exception of the fifth provision. This extends joint consultation to the ultimate source of administrative rule making in the federal service.

The other source of suggestions is the growing body of experience in the government service, much of it having been developed after the report of the President's Committee on Administrative Management was published. Federal policies have been

[110] *Decisions of the National Labor Relations Board,* July 9, 1934–December 1934 (Washington: Government Printing Office, 1935), p. 27.
[111] *Personnel Administration in the Federal Service,* pp. 54–55.

summarized by John J. Corson and Ilse M. Smith in a study already cited. In general, the contents of the thirteen statements studied are similar to the Reeves and David outline. Existing policies do not, however, generally incorporate the majority rule in designating employee representatives, nor do they make so positive a provision for employee participation in rule making. They devote a much larger proportion of their context to grievance adjustment procedures. Each of these points has previously been discussed in detail. Besides procedural requirements, many policies in federal agencies stipulate at least a part of the specific working conditions.[112] Similar subjects are covered by the employee relations policy promulgated by the Commissioner of the New York City Department of Welfare.[113] David Ziskind lists other unilateral statements of labor relations at the local government level in Indianapolis and departments of the Pennsylvania and New York state governments.[114]

Bilateral Agreements

Although the typical procedure by which these policy statements originated involved negotiation with employees, in no case do they take the form of a bilateral agreement. Nevertheless, written agreements have been executed between government agencies and employee groups in a few cases. The United Automobile Workers of America (CIO) reported three contracts covering municipal utilities, one with the City of Anderson, Indiana,[115] and two with the Department of Street Railways, City of Detroit.[116] The contracts provide recognition of the union as sole bargaining agent and scales of wages and hours. The contracts with the Department of Street Railways, Detroit, contain a provision for collection of union dues by the Department from monthly pay checks of employees who authorize it. Federally operated utilities have also entered signed agreements

[112] Corson and Smith, "Federal Policies on Employee Relations," *Personnel Journal*, October 1939, p. 152.
[113] William Hodson, "Personnel Management in the Public Service," *Public Welfare News*, October 1939, pp. 2–3.
[114] *One Thousand Strikes of Government Employees*, p. 198.
[115] International Union, United Automobile Workers of America, *Agreements*, vol. 2, May 1937, pp. 10–12.
[116] *Ibid.*, vol. 3, pp. 10–12 and 94–98.

with unions of their employees; David Ziskind cites the U. S. Railroad Administration in 1918 during the war, the Alaska Railroad, and the Federal Barge lines.[117]

The indication is that where governmental operations clearly parallel those of private industries, agreements may be signed which tend to be almost indistinguishable from the usual collective bargaining contract.

Signed agreements are not, however, limited to the so-called proprietary functions of governments. The American Federation of State, County, and Municipal Employees has entered into five contracts with municipalities and signed a contract with the State of Utah in 1938 and 1939, all covering traditional governmental services. Of these, the agreement executed in June 1939 by the Mayor of Philadelphia with Local Union No. 222 of the AFSCME has a particularly interesting history. The agreement was authorized by the city council a few months after a strike of unorganized city employees. Both the Mayor of Philadelphia and the employees asked for the assistance of the AFSCME in settling the strike. The settlement negotiated by the union and embodied in the contract provides for sole representation by the local union of employees in all bureaus and departments in which members of the union are a majority. The AFSCME has additional agreements with Kaukauna and Ashland, Wisconsin; Niagara Falls, New York; Keokuk, Iowa; and the State of Utah.[118] In 1938 the State, County, and Municipal Workers of America held three contracts guaranteeing collective bargaining rights to city employees of Jeannette, Pennsylvania, and Fairmont, West Virginia, and to employees of the Board of Education of Logan County, West Virginia. A written but unsigned agreement covering employees of the Board of Education of McDowell County, West Virginia, was also reported.[119] More recently the SCMWA signed an agreement with the Commissioners of Carbon County, Utah, to be effective until December 31, 1940, "which, besides usual provisions for

[117] *One Thousand Strikes of Government Employees*, p. 198.

[118] Copies of the contracts have been furnished by Mr. Zander, President of the AFSCME.

[119] Subcommittee No. 1 of the Committee on the Judiciary, 75th Congress, 3d sess., *Hearings on* H.R. 9745, p. 107. Texts of the Jeannette and Logan County agreements are inserted on pp. 108–11 of the *Hearings*.

wages, hours, and seniority, recognizes the union as exclusive bargaining agent of county employees, grants a check-off, permits third-party arbitration of disputes and agrees to a modified form of the closed shop."[120] Mr. Ziskind reports written agreements of the International Association of Fire Fighters with Fort Worth, Texas; Belleville, Illinois; and Quincy, Illinois.

A few contracts are likewise recorded at the federal level. Agreements confined to policies of dismissal and seniority have been signed by the National Labor Relations Board and the Securities and Exchange Commission.[121] The Tennessee Valley Authority recently signed an agreement with its employees in trades and labor classifications as represented by the Tennessee Valley Trades and Labor Council, which is a central organization of fifteen building and metal trades unions. The agreement provides formal recognition of the Tennessee Valley Trades and Labor Council. It recognizes the value of union membership for the accomplishment of the purposes of the agreement. It provides machinery for employee-management cooperation and for mediation of differences concerning working conditions; the unions in turn agree not to encourage or sanction strikes while disputes are being adjusted. Jurisdictional settlements are made the responsibility of the unions, although the Authority reserves the right to assign work to meet schedules if the unions do not reach agreement. A joint adjustment board is established to receive appeals which cannot be settled within the administrative line or by direct negotiation. Otherwise, policies established by the Authority in its Employee Relationship Policy are affirmed and supplemented. The agreement "is the result of over six years' practical experience, study, and work by representatives of the Authority and of the Council."[122]

Appropriateness of Contracts with Public Employees

One of the difficulties of framing contracts governing public employment was expressed by President Roosevelt in his statement that "the very nature and purposes of government make it

[120] *Labor Relations Reporter*, vol. 6, p. 295.
[121] Ziskind, *One Thousand Strikes of Government Employees*, p. 198.
[122] Tennessee Valley Authority, press release, August 6, 1940. The agreement was under negotiation during 1938 and 1939.

impossible for administrative officials to represent fully or to bind the employer in mutual discussions with Government employee organizations."[123] Relevant to this generalization Carol Agger writes:[124]

> In all of those matters in which the administrator has discretion, a bargain may properly be made. It is said that the administrative official cannot "bind the employer." True, his agreement would not be proof against legislative action, for Congress could at any time change the terms of the agreement. However, private contracts of a similar nature are also not completely immune from legislative action, federal or local. The head of each department has authority to prescribe regulations for the conduct of his department and the conduct of the employees. There is no reason why such regulations cannot be made with the advice and consent of the representatives of the employees. There is no lack of power if the administrator wishes to exercise it.
>
> It may be argued that such a regulation by contract will not be binding upon a successor. But while the ordinary rule that the decision or contract of an administrator binds his successor is probably inapplicable to this type of situation, that hardly seems a valid reason for refusing to make a contract. A collective labor agreement in private industry will not necessarily bind a purchaser or successor of the employer. And there is considerable continuity in the conduct of government departments so that settled practices become adopted and continue regardless of changes at the head of the department. These official customs are somtimes referred to as the "common law of the department." As a practical matter, working conditions agreed to by an administrator would not be subject to violent mutations, but would alter slowly as conditions changed, not as administrators changed.

This difficulty has been overcome in Philadelphia, Ashland, Kaukauna, Niagara Falls, and Keokuk by city ordinances directing the mayor or manager to execute the stipulated contract. Another solution is represented by the blanket enabling statute passed by the State of Washington in 1935. This act "authorizes cities of first class, owning and operating public utilities, to con-

[123] Letter to President Luther C. Steward, National Federation of Federal Employees, *New York Times*, September 5, 1937, p. 14.

[124] "The Government and Its Employees," *Yale Law Journal*, May 1938, p. 1134. Arthur W. Macmahon takes the same view; "The New York City Transit System . . . ," *Political Science Quarterly*, June 1941, p. 194.

tract with employees and their accredited representatives, concerning wages, hours, and conditions of labor. Such collective-bargaining agreements not to be operative for over one year, and are not to permit hours of labor or conditions of employment otherwise prohibited by law."[125] The AF of L has recently adopted as an objective the passage of just this type of legislation to cover the federal service. The following resolution was carried at their 1937 convention:[126]

Resolved, That the officers of the American Federation of Labor hereby stand instructed to exert every possible effort to have enacted legislation in the national Congress, establishing collective bargaining and the signing of contracts, governing rates of pay, hours of labor, and the conditions of employment by and between the responsible heads of departments and the divisions of national government and unions of employees, if and when such employees shall become an organized affiliate of the American Federation of Labor without any interference from any elected or appointed officer of such department or division of government.

In the absence of such explicit authorization, the legality of contracts between governmental authorities and employee organizations will have to be settled, for the most part, in specific situations.[127] It appears to be generally true, however, that the

[125] House 21, Approved March 7, 1935. *Digest of Principal State Labor Legislation,* U. S. Department of Labor (Washington: Government Printing Office, 1935), p. 52.

[126] *Report of the Proceedings* of the Fifty-Seventh Annual Convention of the American Federation of Labor (Denver, Colorado, 1937), p. 328.

[127] Subsequent to the completion of this manuscript a collection of cases and legal opinions has been issued by the National Institute of Municipal Law Officers under the title "Power of Municipalities to Enter into Labor Union Contracts—A Survey of Law and Experience" (See Report No. 76, August 1941, National Institute of Municipal Law Officers, Washington, D. C.) to which reference should be made in any discussion of the legal status of collective bargaining in the public service. This report concludes among other things that "legal opinions of the courts, city attorneys, and state attorneys general are unanimous in their decisions that cities do not have the power to sign collective bargaining agreements with labor unions representing municipal employees. . . ." Careful reading of this report will reveal the fact that almost all of the opinions and court cases cited deal primarily with the narrower issue whether municipalities have statutory authority to enter into closed shop agreements with employee unions. The report fails to make a distinction between collective bargaining agreements on wages, hours of work, and working conditions, and the specific issue of the closed shop as a provision of such collective bargaining agreements. The report therefore makes a strong legal case against the closed shop but is hardly relevant to the legal question of whether municipalities have the statutory authority to enter into collective bargaining agreements which do not contain the closed shop provision.

latitude of public executives to enter into contracts with employees far exceeds the current practice in this regard. Enabling legislation is most apt to come out of the demonstrated needs for legal authority after beginnings have been made within the present limits of the administrator's discretion. The collective agreement in government service according to Harold Laski "draws its sustenance from an enabling statute. But that enabling statute is itself based upon a prior agreement. It does not create so much as registrate."[128]

The conclusion is that collective agreements are still exceptional in the public service. The majority of organized employees in the public service has expressed no desire for contractual relations. Yet some union officials have very recently begun to consider the desirability of contracts in public employment. "We have changed our position on that to some extent because of pressure from our organizations" writes the president of the American Federation of State, County, and Municipal Employees. "The subject kept coming up repeatedly, and it finally came to us that there might be value in some kind of adaptation of the contract idea to the public service."[129]

As the experiments in contractual relations within the public service mature, it will be possible to test the validity of the arguments which have vastly increased the scope of employee-management contracts in private industry. There arguments are very succinctly put by Tead: "Let the employer be large or small, public or private: if there is to be any dignity, personal freedom and group responsibility in this area, the growing idea of a constitutional frame of reference has to be and is being accepted."[130]

On the other hand, a strong advocate of participation by employees in the definition of policy may oppose the use of bilateral statements of policy. Thus Roy F. Hendrickson writes: "I believe that any written policy should be stated as emanating from management rather than as an agreement with employees,

[128] *Authority in the Modern State,* p. 363.
[129] Letter from Mr. Zander to Gordon R. Clapp, February 27, 1940.
[130] *New Adventures in Democracy,* p. 213.

even though employees may have been consulted during the formation of such policy, since management is primarily responsible for its success or failure."[131]

The Closed Shop in the Public Service

Unions of government employees are growing in their influence. At the same time public employment is coming to include fields of work in which employees have been strongly organized under private management. Some of these occupations, new in the public service, have a tradition of closed shop agreements. It would, therefore, be surprising if the closed shop did not emerge, at least in scattered test cases, as a problem of public employment.

A recent study of the National Industrial Conference Board has suggested a definition of the closed shop for use as a standard concept in private industry:[132]

> The term "closed shop" signifies an agreement between a company management and a union, or unions, by which membership becomes a condition of employment in the company's plant. "New workers must either be members when they are hired or become members within a specified time after commencing work with the company, and must remain in good standing with the union if they are to retain their jobs."

This definition implies the obligation on the part of the union to admit to membership all qualified candidates or employees who apply in good faith, and this provision is incorporated in many closed shop agreements. The closed shop is sometimes defined as necessarily involving employment only *after* union membership is achieved.

There are several variations of this type of agreement which offer the employer slightly greater latitude in employment. For example, he may agree to maintain the existing proportion of union members among his personnel, or to require that employees who voluntarily join the union maintain their member-

[131] Letter to Gordon R. Clapp, February 5, 1940.
[132] Harold F. Browne, *The Closed Shop* (New York: National Industrial Conference Board, 1939), p. 4.

ship during their period of employment. Researches do not indicate that any of these modifications of the closed shop have been applied or advocated for the public service.

Closed Shop in Industry

Unions of private industrial employees have commonly held the attainment of the closed shop as an ultimate goal.[133] Their reasons have, from their viewpoint, been cogent. They have been of three general types:[134]

1. The closed shop extends the source of union funds to all those employees who benefit from the union's negotiations.
2. Strenuous efforts to build the union are obviated and efforts can be devoted to constructive programs. Discriminatory practices on the part of supervisors and threats of displacement by rival organizations are ended.
3. The union commands the support of all employees, and consequently speaks more authoritatively to management.

Private management has traditionally, although not unanimously, opposed the closed shop. Browne's survey is the basis for the following condensation of the attitudes of a group of private employers on the pros and cons of this question:[135]

1. Advantages of the closed shop:

Eliminates inter-union disputes; makes available more experienced and able union negotiators; avoids inequality of pay and status due to union membership; by freeing union of organizing problems permits cooperation upon long-range problems of joint interest.

2. Disadvantages of the closed shop:

Lowers efficiency due to feeling of union protection regardless of output; encourages an intransigent attitude on the part of union officials; paves the way for unresponsive leadership in

[133] *Ibid.*, p. 6. Of the 102 companies surveyed in this study having union agreements, 19 maintain closed shops and 74 others report that unions had asked for closed shops. See also p. 4.

[134] *Ibid.*, p. 5. Consult also John R. Commons, *Labor and Administration*, pp. 96–97.

[135] Condensed from Browne, *The Closed Shop*, pp. 7, 9.

the unions; involves compulsion by management in what should be a personal choice of employees.

This study reported by the National Industrial Conference Board comes to no general conclusion regarding the desirability of the closed shop provision for effective industrial management. It may be argued that in some situations it might represent a distinct advance in relations conducive to employee loyalty and zeal. In other situations the closed shop might result in loss of efficiency and disaffection of the working force.

Experience with the Closed Shop in Public Service

A summary of arguments on the closed shop in private business is relevant because the public employee's interest in this relationship is a direct carryover from the experience in private enterprise of employee organizations which are not primarily composed of public service employees. The question now arises as to the extent of the interest in the closed shop among government workers.

The question of the closed shop has been raised primarily in those governmental units which perform functions similar to private enterprise. Thus, Spero writes that "there are a number of state printing plants which are actually or practically closed shops."[136] In the Government Printing Office, unions were established when the plant was purchased by the government in 1861. "So strong did the unions become," Spero relates, "that they made the Printing Office a closed shop. . . . On several occasions employees having differences with their unions attempted to withdraw from them and still retain their jobs. The matter came to a head in 1903 when an employee, W. A. Miller, was dismissed by the public printer because he was expelled from the Bookbinders Union. President Theodore Roosevelt quickly reinstated Miller, reiterating the open shop principle . . . . 'No person shall be refused employment or in any way be discriminated against because of membership or non-membership in any labor organization.' "[137]

[136] *The Labor Movement in a Government Industry*, p. 53.

[137] "Employer and Employee in the Public Service," in *Problems of the American Public Service*, p. 200.

While no wide survey has been made, it seems not improbable that tacit closed shop conditions apply in the craft or labor services of many industrial cities. Thus Errant writes of Chicago: "The skilled trades . . . went a step further to see that all positions were filled by union men."[138]

Recently, however, a few scattered examples of closed shop agreements have been recorded for general governmental services. The American Federation of State, County, and Municipal Employees reports that its first contract with the City of Kaukauna, Wisconsin, contained a closed shop clause. A later contract was modified at this point. A contract signed by a local union of the American Federation of State, County, and Municipal Employees in March 1940 with the City of Keokuk, Iowa, contains the following section:[139]

> Whenever reemployments are made . . . or new or additional persons are employed subject to this contract, they shall be at the time of their reemployment, or they shall become within 90 days after their employment, members of the Union.

This is a standard "union shop" provision. The State, County, and Municipal Workers of America likewise had a closed shop contract with the Board of Education of Logan County, West Virginia:[140]

> This county agrees to employ only members in good standing of the union; if the union is unable to furnish union help, then those employed must become members of the union within one week or be discharged.

The more recent contract of the local union of the State, County, and Municipal Workers in Carbon County, Utah, with the Carbon County commissioners provides a modified closed shop as has been noted.

These agreements, however, are noteworthy because they are exceptional. The prevailing administrative policy is that enunciated by Theodore Roosevelt, guaranteeing to employees freedom to join or not to join unions.

[138] "Trade Unionism in the Civil Service of Chicago" (complete thesis), p. 206.
[139] Copy of contract supplied by Arnold S. Zander.
[140] Subcommittee No. 1 of the Committee of the Judiciary, 75th Cong. 3d sess., *Hearing on H.R. 9745*, p. 108.

Legality of the Closed Shop in Public Service[141]

The comparative scarcity of closed shop agreements in government employment can be traced to both legal and theoretical considerations. The British Trade Disputes and Trade Unions Act of 1927 specifically outlaws the closed shop in government in the following terms:[142]

> It shall not be lawful for any local or other public authority to make it a condition of the employment or continuance in employment of any person that he shall or shall not be a member of a trade union, or to impose any condition upon persons employed by the authority whereby employees who are not members of a trade union are liable to be placed in any respect either directly or indirectly under any disability or disadvantage as compared with other employees.

Legal action against closed shop agreements in American civil service jurisdictions would find a trend already established for judicial reversal of recruitment policies which involve any restriction upon open competition not required by the position to be filled. The courts have increasingly reviewed facts as well as law in these cases.[143] Evidence would have to be adequate in such cases to establish the validity of union membership as a criterion of eligibility before closed shop agreements could be relied upon as legal. The condition may even apply outside the jurisdiction of civil service statutes. A lower-court case has recently been reported which in sweeping terms outlawed a closed shop agreement on the part of a school board. The Circuit Court judge "declared that public bodies cannot by contract, rules, or ordinances provide that public work can be performed only by members of certain organizations.[144]

By far the most sweeping test thus far of the compatibility of the closed shop with civil service law is likely to emerge in the near future from the issues raised by municipal purchase of

141 See footnote 127, this chapter.

142 Quoted in Lewis B. Ferguson, *The Trade Disputes and Trade Unions Act, 1927* (London: Butterworth & Co., 1927), pp. 84–85.

143 See the report of Herbert W. Cornell to the Civil Service Assembly, *Proceedings*, 1938, pp. 78–79.

144 *Public Management*, December 1939, p. 374.

two New York City subway lines. The Interborough and BMT transit systems operated under union shop contracts with the Transport Workers Union (CIO). Legislation authorizing the purchase of the systems by the city provided that the 27,000 employees should be subject to civil service law.

Mayor LaGuardia held that the city was therefore prevented by law from taking over the union-shop contract with the transit systems. The opinion of the Mayor's legal advisers was summarized by the *New York Times,* as follows:[145]

> The Corporation Counsel's memorandum contends that Article V, Section 6 of the State Constitution and various sections of the Civil Service Law make it illegal for the city to require a civil service employee to join a union. The constitutional article makes appointment to the civil service a matter of merit and fitness and it is contended that the additional requirement of joining a union cannot be legally imposed.
>
> The Public Service Law and the Civil Service Law are cited to uphold the contention that the city cannot compel civil service employees to remain in a union of which they happen to be members when the lines are taken over by the city.
>
> The Public Service Law prescribes the manner of removal of employees and vests it in the Board of Transportation. Such power of removal, it is argued, cannot be delegated by the board to the union, as would be required if the board were to honor the "union shop" provisions of the contracts. These provisions call for the discharge of any employee who fails to remain in good union standing.

The union, however, produced legal opinions to the contrary and prepared to strike unless its contracts with the transit lines were assumed by the city. The Mayor therefore agreed to leave the question of law to future court decisions. He issued the following statement: "I will therefore recommend to the board [Board of Transportation] the assumption of the contracts and any issue arising from said contracts to be made subject to judicial review."[146]

The situation had changed but little after the expiration of the union's contracts in June 1941. After an intensive appeal

[145] April 1, 1940, p. 4.
[146] *New York Times,* April 3, 1940.

for public support by both sides and general apprehension concerning a possible strike to secure renewal of the contracts, the closed shop issue was dropped by the union. In reaching an agreement with the Transport Workers Union, Mayor La-Guardia, in a telegram to Philip Murray of the CIO, proposed an extension of existing contracts with the union pending an outcome of the city's declaratory suit defining the power of the city to enter into contracts with its employees. His proposal was made under the following conditions:[147]

1. A strike against the City is not and cannot be recognized;
2. That all new employees must be taken from civil service lists;
3. That promotions must be according to civil service law;
4. That no employee of the Board of Transportation can be compelled to join any union, while he is free to do so if he wishes;
5. That no employee can be discharged for failure or refusal to pay dues to any union;
6. That the City is compelled under the law to operate daily, nightly and uninterruptedly rapid transit service through the subways and transit by bus and trolleys on City owned and operated lines.

The decision of the courts in this case will undoubtedly shed much light upon the legality of various closed shop provisions under civil service law. In the meantime, it is well to consider the long-range questions which cannot be decided purely in legal terms: What should be the legislative policy toward the closed shop? Is the closed shop an inevitable goal of employee organizations or a defensive armor which may be outgrown in favorable surroundings.

Principles Involved

It may be argued that there are three distinctive conditions of public employment which operate against the acceptance in administrative policy of closed shop provisions. The first is applicable in those jurisdictions in which legal sanctions compel adherence to the merit principle. This is perhaps nowhere stated

[147] *New York Times*, June 29, 1941, p. 30.

more strongly than by the Special Committee of the National Civil Service Reform League.[148]

Once the merit system is established by law as the method of selecting government employes, the closed shop which denies the open competitive principle, can have no place in the public service.

Presumably, efficiency requires private industry to recruit workers upon their merit, but it is not necessarily bound to employ the leading candidate should it be desirable to temper merit selection for the benefit of harmonious union relations. The public service administrator operating under a merit system must not only employ qualified candidates, but he must employ *the best,* according to established criteria, upon the register. There are very few occupations in the traditional governmental services in which union membership is so universal that a closed shop would always be compatible with this principle. Even in those occupations where this would be most probable, the provision of open competition in the civil service law would seem to militate against restricting eligibility to union membership. In some instances, for example in skilled trades which have established apprenticeship programs and require qualifying tests, union membership may normally be accepted as a certificate of qualification. Even so, the converse is not true, i.e., that all nonmembers lack the required qualifications. Assuming that only union members possessed qualifications for a position, a situation which would be less likely to obtain in the predominant occupations of public service than in such private industries as clothing manufacture or construction, an unqualified citizen might still claim *eligibility* for examination. This the courts could hardly fail to grant him. Should existing law fail to prohibit restrictions upon eligibility, legis-

[148] Report on *Employer and Employee Relationships in Government,* pp. 5–6. The Committee's basis for this emphatic conclusion is interesting:

"Likewise, the closed shop is incompatible with open competitive opportunity which is implicit in our democratic merit system. It would be most unfortunate if labor organizations were to adopt a policy of antagonism toward proper application of civil service laws because of misunderstanding of proper relationships that should exist between government and its employes. Open competition is today established beyond question as the best and most democratic method of selecting qualified government employes."

lative action would perhaps be forthcoming. In Congress, if not in other legislatures, the principle of the democratic right of every American to compete for a public service position is well established.[149]

Public reaction to a closed shop policy would be tempered not only by the tradition of equality in competition, but secondly, by real or fancied prospects of political identification of the entire government staff through its labor organization. If the union in question had any political relations or program, to require membership in it as a condition of employment could hardly be distinguished, in the public view, from ordinary patronage. There might be a technical difference if the political program of the closed-shop union were determined by the vote of the membership, and as such, were independent of the administration. One would suppose, however, that few legislatures would sustain this distinction. As an indication of possible political repercussions involved in the closed shop, the following newspaper account of the preliminary discussions leading to the purchase of privately owned subway lines by the City of New York is instructive:[150]

> The contract of the Transport Workers Union, a Committee on Industrial Organization affiliate, with the Interborough Rapid Transit Company covers about 14,000 workers, and that of the Transport Workers Union with the Brooklyn Manhattan Transit Company covers about 11,000. If these contracts should be continued on a closed-shop basis after the city acquires the lines, it is considered unlikely that the workers of the city-owned Independent System could be excluded from closed-shop status.
>
> Should these contracts be extended to cover all city subway employees on a closed-shop basis after unification, the city would have on its pay roll 25,000 to 30,000 closely organized Committee on Industrial Organization employees, whose voting strength would exceed that of the present Police and Fire Departments combined, it was pointed out. This group, according to political observers, would become one of the most powerful voting blocs in the city or even in the State.

[149] White, *Introduction to the Study of Public Administration*, p. 314.
[150] *New York Times*, January 16, 1939, p. 1.

From the employee's standpoint, as well, there seem to be reasons for differentiating between government and private service with respect to the closed shop. These differences do not depend on any greater acceptance of the idea of dealing with employee organizations in the public service. They are based on the prevalence of standards of recruitment and compensation, which makes discrimination against unions more difficult in these fields. John R. Commons, as early as 1913, made an analysis of this point which merits quotation:[151]

> In the ordinary competitive lines of employment it is scarcely possible for a trade union to maintain its scale of wages without insisting that all of the employees shall belong to the union. Such insistence is necessary in order to protect the employer from his competitor. He is not free to do as he pleases, even though he seriously intends to pay the union scale of wages.
>
> But the situation in the case of the public, as employer, is different. The city, or state or nation is not subject to the competition of private employers; it establishes a scale of wages for the different grades of service, and it pays that scale of wages out of revenue derived from taxation, if necessary. The management of the public service is governed by a scale of wages and hours which has the effect of law, and it is not driven to reduce the price by indirect methods. Consequently, the essential condition which is sought to be secured by the so-called closed shop in private employment is secured by law in public employment for both union and non-union employees. . . .
>
> With the proper organization of public employees the open-shop principle is not a menace to the union organization. Recognition of the union, and dealing with it as such, which are essential to this public organization, make it to the advantage of every man in the service to go into the organization as soon as he is employed in the department.

Like their colleagues in private employment, government unionists might object to the prospect of nonmembers enjoying improved working conditions to the attainment of which they have made no contribution. This, however, would appear to be an argument on ethics and not on principles of management.

There is still the possibility that labor organizations might

[151] *Labor and Administration*, pp. 107–09. See also Spero, *The Labor Movement in a Government Industry*, pp. 52–53.

press demands for a closed shop as a defense against discriminatory dismissals. They have, as we have seen, been given grounds for reassurance on this point in only a part of the public service. With the extension of impartial, and especially joint employee-management review of disciplinary cases upon appeal by the employee or his representative, this possible argument may lose its significance.

But, it may be argued, the very benevolence of the governmental employer might work in reverse to increase the demand of a union for closed shop conditions. When a union which has made a place for itself in private employment finds its members in the public service, according to this view it might resort to closed shop demands as the only alternative to continued lively interest in collective bargaining on the part of its membership. Arthur W. Macmahon recognizes this as a possible motive in the case of the Transport Workers Union in the New York City subway service, but he points out that this reaction is not beyond the power of the management to redirect into constructive channels.[152]

The tradition of security in the civil service, no doubt exaggerated, does hold for unions the risk of an indifference on the part of members which may be poles apart in mood from self-dedication to the welfare of the enterprise as a whole. But in such circumstances the pressing need of the union is the prestige of effective managerial contacts, not monopoly.

The general conclusion in regard to the closed shop in public employment at this stage seems to be clear. Present concepts of the merit system seem to leave little room for closed shop conditions. Perhaps for this reason, and because governmental working conditions are fixed by public standards, public employees have very rarely pressed claims for the closed shop. The issue has emerged almost entirely where unions are accustomed to closed shop dealings with private employers. The question seems unlikely to arise on any larger scale provided reasonable safeguards are established along the avenues described in previous sections against the suspicion of anti-union discrimination.

[152] "The New York City Transit System . . . ," *Political Science Quarterly*, June 1941, p. 196.

Chapter VI

The Role of the Personnel Agency in Employee Relations

AGAINST a background of employee attitudes and theories of government as employer, we have considered the broad issues of employer-employee relations in government. The first chapter suggested that these relations comprise a definite area of administrative problems and opportunities and that the guidance of these relations is coming to be recognized as a function of the personnel agency. The personnel agency may further delegate this function to a specialized unit within its staff, but in any event the personnel agency begins to assume the employee-relations function as soon as it faces the problem of morale. Morale is subject to various influences, but not the least among these factors is the working group's sense of participation in the planning, conditions, and discussions of the work program.[1]

The public employee is neither simply an instrument of production nor an entity in political theory. This has been demonstrated by his efforts to achieve self-expression in his working relationships. The aim of the personnel agency is to provide in personnel relationships such satisfactions for the natural human demands of the staff as will contribute to loyalty and zeal rather than to disaffection. The varied, and in some instances, complex policies and mechanisms which will inform management of employee reactions and channel these reactions into cooperative solutions have been discussed in the preceding chapter. Employee relationships thus take account of a third dimension of supervision. Management is no longer satisfied with the single plane of orders and obedience, since obedience

[1] A convincing practical demonstration of the importance of the worker's feeling of responsibility in an industry is B. Seebohm Rowntree's *The Human Factor in Business* (New York: Longmans, Green, 1938).

neither effects maximum performance nor satisfies the subordinate's need for self-realization. Resilient, imaginative, and effective service is realized only in three-dimensional supervision which involves the *interaction* of supervisor and subordinate and the latter's associates. The field of employee relationships is, for this reason, an intimate and vital part of administration.

Granting this basic assumption, there arises a group of questions concerning the relation of the personnel agency performing employee relations functions to central administration and to the employee group. Is the personnel agency a spokesman for management? Is it a "friend in court" for employees? Is it a mediator between management and employees? Or is it a specialized segment of management charged with a mandate to help management handle its employee relations in conformance with established policies and in a manner to promote the highest morale and efficiency of its employees? Further, is this relation, whatever form it takes, a constant one, or is it altered when policy formation gives way to day-by-day interpretation? Does it vary according to the subject matter with which policies deal? Is it affected by the stage of organization of both management and employees and by the quality of leadership possessed by either or both groups? What clues are there for the internal organization and staffing of the employee relations unit?

Employee Relations as Method

Questions relating to the role of the personnel agency which grow out of the increasing emphasis upon employee relations may be illuminated by a distinction which has been too much obscured by the traditional specialization of personnel workers. The identification of employee-management relations as a separate function, among others, in the organization structure of the personnel agency, however desirable, has not always contributed to a clarification of its relationship to other personnel activities. It must be apparent from the discussion in preceding chapters that the employee relations staff will be primarily concerned with *method* rather than subject matter. Method, like research,

is a technique applicable generally in the administration of the various functions which are commonly associated as comprising modern personnel administration. While the problems of method entailed in the employee relations program do in themselves require attention by a staff possessed of expert knowledge and special background, and while there is perhaps a core of employee-management relations *subject matter* in that sense, its peculiar character in relation to the total personnel program should be clearly recognized. Indeed, it may be said that the policies of the agency in this field constitute the *method* through which the personnel program is conceived, devised, and administered. This is a distinction analogous to the definition of education as method and of curriculum content as subject matter, long familiar to professional educators.

The philosophical base and the practical aim of personnel administration provided by the foregoing observations have implications for the role of the personnel technician or subject matter specialist. In an agency which achieves an advanced stage of development in its employee-management relations, his contribution will be sought; his will be a service of knowledge. His contribution will be respected and utilized in a manner similar to that ideally accorded the expert and the scientist in the general area of democratic government. The employee relations staff will, of course, become expert in the procedures and methods which facilitate the technician's contribution in the processes of conference, discussion, and democratic participation by which the area of agreement, mutual understanding, and active consent is constantly enlarged. Thus, a well integrated personnel agency will provide leadership, imagination, and motive power, but will also recognize the need for applying the brakes when misdirection or excessive speed on the one hand, or perfectionist tendencies on the other, may jeopardize steady progress or produce a lack of confidence in the entire process.

Because the method and aim of the employee relations program emphasize participation in the process of formulating general policy, and typically provide other correctives and

checks in the process of execution and subsequent interpretation of existing rules, a more specific exploration of the role of the personnel agency can be profitably pursued in that order.

Contribution to Policy Formation

In the sphere of formulating general rules and conditions of work, the public personnel agency frequently acts in two directions.[2] It may recommend legislation by which major personnel policies are defined. Within this framework it then either recommends or promulgates the operating regulations for personnel affairs. These responsibilities fall in an area peculiar to government personnel agencies; however, there is an interesting parallel trend in private personnel management, which must both interpret and, if possible, influence the new legislation relating to labor.[3]

The Formulation of Policy Recommendations

Reeves and David, in their monograph for the President's Committee on Administrative Management, have given very careful consideration to the responsibility for recommending legislation affecting personnel. The essence of their view is that the central personnel agency should coordinate proposed legislation on personnel matters with representatives of the executive departments and employee groups before making recommendations to the President for submission to Congress. A reading of Congressional and legislative hearings on personnel legislation suggests even to the outsider that much needless divergence among line executives, employee groups, and central personnel agencies, and frequent absence of direct recommendations from the President, create a difficult problem for the legislature and its committees. The Civil Service Assembly Survey revealed similar unsystematized modes of proposing

[2] Ordway Tead, *New Adventures in Democracy*, p. 124.

[3] W. V. Owen, "Decentralize Personnel Work," *Personnel Journal*, June 1940, pp. 66–67. Private personnel agencies have developed this dual function to the highest degree in those industries where working conditions are set through trade associations. See Ordway Tead, "Trends in Collective Bargaining as Affecting Personnel Management," in *Collective Bargaining for Today and Tomorrow*, p. 143.

ordinances affecting municipal personnel to city councils. The solution recommended by Reeves and David is not to foreclose employees' access to the legislature but to establish procedures for consulting them as well as administrative officials in the formulation of legislative recommendations.[4]

Within the jurisdiction or agency to which legislation applies, the personnel office has a similar responsibility for incorporating in any decision affecting conditions of employment the criticism and active collaboration of both employees and line administrators. The reasons why the personnel agency should take the initiative in securing this participation are readily apparent. Tead has suggested that employee groups are inclined to *originate* plans for cooperation in administrative decisions only after they have built up a strong organization, or in proportion to their direct interest in the problem.[5]

Certainly not all administrators who are charged with production or the execution of a program will, of their own impulse, bring employees into collaboration on matters with which they have authority to deal. This responsibility is clearly recognized as an assignment to the personnel agency in many private industries. The recent analysis of industrial relations functions in one hundred representative companies by the Industrial Relations Section of Princeton University sheds light in this area. The analysis reveals that one essential of good industrial relations is "the formulation of industrial relations policies *after* adequate discussion with line executives, supervisors, and representatives of employees."[6] The specific methods by which the results of this discussion are introduced into the decisions of top management are: (a) the direct access of the chief executive to the industrial relations point of view as embodied in the chief of the personnel staff, and (b) the "better coordination of staff research service and line executive opinion through a special labor advisory committee."[7]

[4] *Personnel Administration in the Federal Service,* pp. 52–53.

[5] "Trends in Collective Bargaining as Affecting Personnel Management," in *Collective Bargaining for Today and Tomorrow,* p. 143.

[6] Helen Baker, *The Determination and Administration of Industrial Relations Policies* (Princeton University, 1939), p. 66.

[7] *Ibid.,* p. 12.

A Service of Technical Knowledge

The personnel agency has a vital contribution to make to the shaping of general policy whether by legislative or administrative decision. In part, it provides technical assistance to the chief executive or to the legislature on the *substance* of basic employee relationship policies. With the recognition that employee relations is a factor affecting virtually all major determinations of internal policy, this responsibility of the personnel agency has been broadened. Personnel departments in industrial companies appear to be performing the research upon which executive decisions affecting personnel are based.[8] The United States Civil Service Commission performs research functions which are requested by Congressional committees and by the President in formulating policies affecting employee relations.[9] The same is true of a number if not all of the municipal civil service commissions where funds permit. Nevertheless, public personnel agencies have scarcely begun to tap the fields of information which are coming to be relevant to decisions on employee relations. Tead lists fields of specialized knowledge which, he predicts, will constitute the frontiers of personnel work as it concerns employee relations in private industry. The list is suggestive to public personnel officers. It includes joint training programs, contribution by unions to recruitment sources, and collective bargaining on an industry-wide plane.[10]

In this role the personnel agency, particularly if it contains a specialized employee relations staff, becomes the repository not only of technical knowledge of the subject matter of personnel administration, but also of such knowledge and experience as has been outlined in the preceding chapters. It will be aware of the conditions of success of the various approaches to collective dealing, of the bases and the tested methods for assuring sound and workable settlement of questions of representation, of the probable effects of any possible limitations on the types of em-

[8] *Ibid.*, p. 11.
[9] Reeves and David, *Personnel Administration in the Federal Service*, pp. 20–21.
[10] "Trends in Collective Bargaining as Affecting Personnel Management," *Collective Bargaining for Today and Tomorrow*, pp. 136–40.

ployee representatives who are recognized, and of the scope of subjects which are appropriate for various types of joint union-management conference.

A Service of Procedure for Policy Making

The other type of service which the personnel agency is being called upon to render when policies are being established lies in the area of method. This is the procedure for drawing the supervisory hierarchy and the employee spokesmen into the process of decision. The personnel agency must act not merely as an intermediary between these groups, but must actively enlist their participation.

The personnel agency is charged with these responsibilities regardless of the strength of employee organization. In the absence of employee organization, it has the added duty of so anticipating employee reactions that the stage will be set for cooperative relations if organization should take hold. In strongly organized jurisdictions, the establishment of a variety of consultative processes (joint wage boards, or *ad hoc* committees to formulate retirement plans, promotion, or reinstatement policies, for example) places additional procedural responsibilities upon the personnel agencies. The chief personnel officer will usually be a member, and sometimes chairman or secretary of these joint bodies. He must be able to clearly define their responsibilities as agreed upon by the parties and to interpret these responsibilities to the participants.

It is thus apparent that the development of negotiation as a method of reaching decisions in employee relations will not detract from the responsibilities of the personnel staff except where the personnel agency has been making these decisions solely on its own authority. Wherever employee relations policies are recognized as an element of central management, the development of consultative methods will place greater responsibilities on the shoulders of the chief personnel officer. This is clearly recognized in industrial management. "The influence of the industrial relations specialist in policy-making seems to have been enhanced rather than diminished by the

attempt to bring line executives and employees into an advisory relationship to top management."[11] The trend toward consultative processes of personnel policy formation has not reduced the responsibility of the line executive in the effectuation of these policy decisions. It has, however, increased his recognition of the need for specialized advice in interpreting agency-wide policies. At the same time this trend, if continued, can contribute much to the unification of diverging objectives among line management, employees, and personnel agencies at the point where these all too common conflicts have their inception. Similarly, the process of preliminary check with an appropriate cross-section of those affected by proposed regulations has a wholesome effect upon the too common rule-of-thumb approach to personnel policy and furnishes the corrective for unrealistic uniformity and excessively detailed legislative or administrative policy which hampers effective administration.

Role of the Personnel Agency in Administering Policy

Most of the meaning of employee relationship policies lies in their application to everyday work situations. This accounts for the increasing attention which employee organizations are paying to the administration of statutes or regulations under which they work. There is no doubt of the central importance of guiding the continuous interpretations of employee relationship policies. How can this guidance be assured?

Overseer vs. *Adviser*

It is only realistic to recognize that executives at best possess widely divergent backgrounds of experience as supervisors. Some officials lack experience in dealing with organized subordinates, others have been accustomed to relations characterized by conflict and antagonism. Similarly, employees in a given unit may be relatively sensitive or apparently indifferent to their conditions of work. The situation, according to this

[11] Baker, *The Determination and Administration of Industrial Relations Policies*, p. 16.

view, calls for coordination by a personnel agency backed by administrative authority to correct any misinterpretations it discovers. It would act as an overseer in its relation with the "line" supervisors.

The contrary view is that the personnel office must, like any other functionalized management service, rely upon the acceptance of its ideas by line supervisors as an aid to their functions of production.[12] By this view the personnel agency would have recourse to command of officers in other parts of the enterprise only through the chief executive—the department head or manager. Reeves and David state in general terms a principle which they later apply specifically to employee relations:[13]

> If the central [personnel] agency is competent, its leadership will make itself felt with minimum resort to the coercive authority of the Chief Executive, although that authority should be available when needed. Constructive personnel activities are essentially educational.

In this interpretation, the personnel office retains the advisory role, in its dealings with supervisors down the line, which has been found appropriate for its relation to central management.

There is competent opinion in support of a general functional relationship with "line" supervisors. Lewis Meriam has dealt extensively with the question. In writing of the functions of personnel management for maximum productivity, he argues:[14]

> For three reasons these new and better practices cannot be forced on administrative officers by a control agency issuing ukases: (1) the authority and responsibility of the operating officers cannot be impaired by forcing them to do things in which they do not believe; (2) the new methods to be successfully applied call for sympathetic understanding, interest, and enthusiasm on the part of the operating officers; and (3) the situations arising down in the operat-

[12] Valuable perspective is afforded by the definition of "line" and "staff" functions by L. Urwick, "Organization as a Technical Problem," in *Papers on the Science of Administration*, pp. 57–59.

[13] *Personnel Administration in the Federal Service*, pp. 39, 58.

[14] *Public Personnel Problems from the Standpoint of the Operating Officer*, p. 17.

ing units are so diverse that they can hardly be covered by rules and regulations.

Dr. W. W. Stockberger epitomized the principle of centralized guidance with decentralized authority when he wrote in the first Bulletin of Personnel Administration of the Department of Agriculture:[15]

We have possibly 15,000 supervisors and executives engaged in personnel administration. There is a handful of men in the Office of the Secretary and in bureau administrative offices who are advisors and counsellors in matters involving personnel administration. Those who are actually responsible for getting the work done come to us with their problems and we tell them, more often than not, how we have seen men in other bureaus of the department find solutions for similar personnel problems.

The practice in private industry seems clearly to be developing in the same direction. Helen Baker writes:[16]

If a staff representative must act as agent for top management because of the inability of subordinate line executives to carry out the policies of top management, then the most essential next step is to develop a line organization equal to the new responsibilities. The industrial relations staff can help to strengthen the line executives and supervisors in many ways: by planning and providing explicit factual information, through record keeping, through consultation, and as co-ordinator. However foremen and supervisors only become more adept in their new activities connected with group relations as they accept complete responsibility for the results. When management begins to consider in every new development the extent to which the staff may be used to improve the effectiveness of the line organization without relieving the latter of its responsibility or weakening its authority, the industrial relations staff is likely to find its influence and prestige increased rather than diminished.

Dissemination of Information Concerning Policies

Management has not solved its problem of maintaining high standards in controlling relations between supervisors and sub-

[15] January 20, 1938.

[16] See "The Industrial Relations Executive and Collective Bargaining," *The Society for the Advancement of Management Journal*, July 1939, pp. 105–07.

ordinates, however, merely through respecting the responsibility of the supervisory line. As long as first line supervisors must make their decisions on the basis of the infrequent precedents established by their superiors, there is the likelihood of widely varying qualitative standards among supervisors in the same organization. Indeed, supervision may become colored by a general lack of assurance. An obvious remedy for these difficulties is the dissemination of information about employee relationship policies throughout the enterprise. While detailed techniques vary, several methods of making policies clear to the entire personnel have been widely utilized.

There is general agreement on the desirability of putting general personnel policies into writing and on the necessity of doing so as an aid to decentralizing administration. Such statements may take any of the forms previously discussed. A variety of regular channels are available to the personnel agency for publicizing formal policies throughout the agency: bulletin boards, employee magazines, distribution of printed bulletins, entrance interviews, and annual reports to employees.

Attention has also been called to the contribution employee organizations can make in explaining policies to the subordinate staff, provided they have had a part in shaping such policies in the first instance.

The supervisory forces who apply employee relations policies in almost every contact with their subordinates are entitled to the fullest information which can be provided. The methods by which supervisors are best educated in this phase of their responsibilities are similar to those by which they develop proficiency in controlling costs, in rating their employees, or in scheduling work. Supervisory training, as such, is outside the scope of this report. Yet it may be pertinent to observe that the personnel agency will be most effective if it first brings the higher line executives to recognize their primary responsibility for such training. They will, of course, appreciate their task more readily if they have had a voice in determining policy. They will also understand more readily the value of expert advice on employee relations and general personnel matters

when problems develop which are not solved merely by so-called "horse sense" and talent for supervision. The personnel agency must demonstrate the value of the contribution which experience and knowledge in the field of employee relations can make to the solution of concrete supervisory problems. Some of the most advanced supervisory training is therefore being done in staff conferences in which actual cases in the experience of the agency are considered and in which a personnel officer sits as a consultant. Whether this process is formally identified as training is beside the point; frequently it is more effective as a training process if it is not so identified.

Advisory Assistance

By aiding the management in these educational steps, the personnel agency will have vastly simplified its task of providing assistance in specific problems which supervisors meet in applying and interpreting policy. Nevertheless, the latter job will continue to be a vital one. Problems will reach the personnel officer in various ways: at the initiative of the supervisor, at the initiative of the employee or employee representative, and through the regular review of personnel actions. The quality of morale, and the ease of the personnel officer's task, will depend upon his ability to anticipate potential problems in employee relations before they have become crystallized or set by official decisions. From this point of view, it is obvious that his effectiveness as an adviser depends upon the confidence reposed in him by supervisors with whom he deals. If they regard such advice as interference, or if they hesitate to reveal difficult situations for fear of revealing supervisory incapacity, his service is severely limited.

Often supervisors themselves may not be aware of the effect of their actions on the morale of subordinates. If, in the normal course of reviewing administrative increases, allocations of positions, recommendations for promotion, or transfer or dismissal, or in conducting classification surveys, the personnel agency can detect hazards to employee relations, or actions taken without regard to the ultimate effect upon group morale, much future

grief can be forestalled. This requires more than a clerical check upon the personnel actions of operating officers. It requires sensitivity and broad understanding on the part of the reviewing personnel officer and good coordination within the personnel agency.

There are probably many occasions when the advisory role of the personnel agency in its relation to day-to-day administration may be described as mediatory, particularly where misunderstandings and apparent disagreement are resolved by clarification of facts and issues. Full use will be made of the technical resources of the personnel agency in this continuous educational process. It is pertinent to observe that the emphasis in personnel administration shifts from negative to positive functions as an employee relations program develops. Without doubt the emphasis upon divided administrative control which has normally characterized past progress in personnel management loses some of its validity as there become established the self-correcting and self-enforcing mechanisms which are provided by strong employee organization, ably represented, and strong and enlightened supervision. The personnel agency looks forward to such a goal by developing the alertness of the supervisory line to the opportunities for constructive relations with employee groups. In the words of Roy F. Hendrickson, "To delegate generously, but to follow that delegation with a constant flow of education, stimulation and assistance" is the emerging program of the personnel agency.[17]

Quasi-Judicial Aspects of Employee Relations

When, in specific situations, the stimulation and assistance described in the preceding section have been unavailing, or when other irreconcilable differences stand as a barrier to further progress, the available procedures for quasi-judicial review and decision must be invoked. The employee relations staff in the personnel agency will have been alert to the occasions on which recourse to these procedures has become necessary. It

[17] *The Personnel Program of the United States Department of Agriculture*, Civil Service Assembly, Pamphlet No. 15, p. 8.

will be expert in the techniques and procedures which are the key to sound and orderly disposition of grievance cases. This leads to further questions which have arisen with respect to the appropriate role of the personnel agency in relation to these quasi-judicial functions.

Adjudication of Disputes Concerning Representation

The role of the personnel agency may be complicated by demands upon it to decide two kinds of disputes. As has been noted, differences among employees concerning representation are likely to be precipitated by their participation in formal policy-determining conferences. It is to the personnel agency, under whose auspices such conferences are held, that questions of representation will be directed initially. The questions posed may be: What is the appropriate unit for representation? or Who is the duly constituted representative of that unit? These problems are of primary concern to employees, although the employer may have a legitimate interest in the scope of the unit for employee representation. With reference to both questions, Reeves and David conclude: "The responsibility for settling such disputes should not be given to the head of the proposed central personnel agency, since he should not be placed in the extremely embarrassing position of determining which employee representatives he himself will recognize as representative of any group." [18] Instead, as we have seen, they advocate its assignment to a standing committee, appointed by the chief executive, entirely outside the personnel agency.

It is too early to judge whether this is a valid caution in other jurisdictions, yet the argument seems applicable to all levels of government. If disputes concerning representation are turned over to the personnel director for settlement he may be forced to assume a difficult dual role. He may become alternately counsel or party to negotiations, and judge of the authenticity of any controversial claims of representative capacity on the part of those opposite him in the negotiations. Experience alone can demonstrate whether the personnel agency can retain confidence

[18] *Personnel Administration in the Federal Service*, p. 55.

while acting in both capacities. The allocation of the responsibility for deciding disputes as to representation is certainly a matter in which employees ought to be heard.[19]

Adjudication of Grievances

Another type of quasi-judicial action is called for in disputes between immediate supervisors and employees arising out of conflicting interpretations of policy as applied to specific sets of facts. The facts, too, are often in dispute. The personnel agency is frequently called upon to settle such employee-supervisor disputes or grievances at some stage in the appeals procedure. Reeves wrote:[20]

> Personnel agencies are increasingly participating in quasi-judicial functions in connection with appeals from decisions relating to demotion, separation from the service, classification and salary status, and compensation for injuries received in line of duty.

Thus, on the one hand the personnel staff is called upon to settle decisions impartially on the basis of law, regulations, and precedents; on the other, its normal duty is to promote the type of consultative role in central management which may have the appearance, at least, of commitment in advance. One solution to this difficulty has been the establishment of boards to hear grievances. The present tendency is to endow such appeals boards only with the power to make recommendations[21] but they may still serve to clarify the personnel officer's position. Thus, Reeves went on, in the article quoted above,[22] to propose that:

> The model personnel system will have a central personnel agency headed by an individual to care for administrative and develop-

[19] The Tennessee Valley Authority lodged responsibility for certifying employee representatives in the personnel department but attempted to secure independent review by the National Labor Relations Board (Tennessee Valley Authority, Employee Relationship Policy, Sec. 6). In this case the procedure and allocation of responsibility to the personnel agency was labor's own proposal. In the instances in which the procedure has been invoked by rival groups of employees, careful joint agreement, step by step, on details of election procedures, voting lists, tellers, certified counts, and poll checkers has successfully avoided contested results.

[20] "Essentials of a Model Personnel System," *The Annals,* January 1937, p. 135.

[21] Corson and Smith, "Federal Policies on Employee Relations," *Personnel Journal,* October 1939, p. 155.

[22] *The Annals,* January 1937, p. 141.

mental functions. Within this central agency it will establish a board which will be charged with responsibility for the quasi-judicial aspects of the personnel function. In this way the advantages of both forms of organization may well be secured without the disadvantages attached to either form of organization.

The proponents of such an appeals board have been careful so to restrict its jurisdiction and authority that it does not intrude too much upon the judgment of the supervisor who is responsible for the continued job.[23] The possibility of reversal from higher up does, in fact, modify the supervisor's controls. But if the supervisor is trained to a process and acquires an attitude of mind, he will become as thorough in his search for facts and as sound in his judgment as to experience few reversals. Moreover, reversals need not be taken as indications of lack of supervisory competence, or result in the loss of the prestige of the supervisor. The Director of Personnel of the Department of Agriculture writes:[24]

> Contrary to the opinions of some, I have failed to note in any instance where appeals boards—in reversing the decisions of supervisors—have in any way weakened the position of such supervisors.

Gulick has an instructive passage on the tendency he finds throughout administration to restrict the disciplinary powers of the first line supervisor. Two of his sentences are quoted here:[25]

> These limitations of the right to hire and fire are destined, it is clear, to become more and more restrictive. It becomes increasingly clear, therefore, that the task of the administrator must be accomplished less and less by coercion and discipline and more and more by persuasion.

The weight of studied judgment opposes the practice, sometimes found at the municipal level, which permits the personnel agency to control supervisory decisions through the power of reversal upon direct complaint of employees. The prevalent view is that the decisions of the chief personnel officer should

[23] Mayers, *The Federal Service*, p. 504.

[24] Roy F. Hendrickson, letter to Gordon R. Clapp, February 5, 1940.

[25] "Notes on the Theory of Organization," chapter I in Luther Gulick and L. Urwick, *Papers on the Science of Administration*, p. 39.

take the form of recommendations to central management. Within these limits, the desirability of assigning the function of quasi-judicial decision directly to the personnel agency must be decided in terms of the alternatives available, and in terms of the stage of development of responsible joint relationship between organized employees and management.

The general conclusion seems to be that the essential role of the personnel agency is to improve the supervisors' conduct of employee relations through demonstration, stimulation, and advice. Judicial decision upon appeals must be lodged in a semi-independent body if it is found in practice to conflict with this role of staff officer. There is strong agreement on this basic point:[26]

> Experience indicates the dangers involved in combining control with educational promotion. The control agency may easily attempt to do by force and regulation those things which can only be achieved by changing the attitude and the point of view of the operating officers. The operating officers, aware of their own need for advice and counsel, naturally hesitate to turn to a distant central control agency because they fear failure to understand the real problem and a loss of their independence and freedom.

Implications for Administrative Organization

Obviously, the broad trends implicit in the preceding discussion of the role and responsibility of the personnel agency in developing employee relations programs all have a bearing upon problems of administrative organization. Some of these trends, and some of the implications to which they give rise, are: participation in policy formulation in the direction of more realistic and workable (and therefore more positive and more general) legislative and administrative rules; the trend toward unification of objective and integration of "line" responsibility for ultimate effectiveness in personnel administration; the emphasis upon technical service, education and advice as the function of the personnel agency; and the eventual development of

[26] Meriam, *Public Personnel Problems from the Standpoint of the Operating officer*, p. 17. See also Slocombe, "Personnel Work and Employee Representation," *Personnel Journal*, October 1936, p. 139, and Tead, *New Adventures in Democracy*, pp. 108, 124.

self-correcting and self-improving mechanisms in the line organization itself.

Relation of the Personnel Agency to Line Management

These trends have already impelled some consideration of the organizational relationships of the personnel agency, at least in its employee relations function. The traditional concepts of maximum independence and wide separation of responsibility for integral phases of the administrative process begin to lose some of their validity. Remote administrative controls and long-delayed decision become incompatible with the effective and realistic day-to-day administration of personnel matters as an integral part of supervision. No stronger indictment of the independent commission as an aid to personnel management has been made than that of Charles P. Messick some years ago:[27]

> To continue to hold that the public personnel agency must be something apart from the administration itself, handed down from above, up from beneath, or over the political barrier, always on the outside of things, is only to miss the main chance and to fail largely in meeting the responsibilities and performing the functions that the personnel agency of today must meet and perform.

To say this is not to become a partisan in the debate on administrator versus commission to head the personnel agency.[28] It is merely recognized that there are advantages in organizing the personnel agency as an integral part of overhead management where employee relationship policies are evolved. The evidence of the Civil Service Assembly Survey of local government personnel practices points in this direction. There is every indication that civil service commissions, local and national, are amenable to hearing employee views on pending regulations. But the hearing is typically on a finished proposal, so that employees have slight part in actually formulating personnel policy. Moreover, there is substantial support for the view that separate

[27] *Proceedings,* Nineteenth Annual Meeting of the Assembly of Civil Service Commissions (Philadelphia, 1926), p. 67. Quoted by Mosher and Kingsley.

[28] There seems to be an authoritative consensus now on record for organization of the personnel agency under an administrator: White, *Introduction to the Study of Public Administration,* p. 294; Mosher and Kingsley, *Public Personnel Administration,* p. 70.

commissions do not seem best suited to promoting, as a staff function, the policy of jointly negotiated decisions affecting employees.

A related question confined to the larger public agencies[29] is that of central as against departmental establishment of employee relationship policies. The lessons of the federal service indicate that at the present stage departmental personnel offices more naturally assume this role than does the central agency. The United States Civil Service Commission has made its contributions by stimulating interest in the field.[30] The Chairman of the Social Security Board has expressed his belief in the logic of making and administering employee relationship policies at the department level. He wrote in 1937: "The development of a labor policy and the machinery for this expression of the employee viewpoint should be a responsibility recognized by the department personnel office."[31]

On the other hand, the organizational difficulties which confront a semi-autonomous personnel commission in rendering advisory assistance to the administrative line should not obscure the responsibility which would nevertheless devolve logically upon the central personnel agency. The generally recognized "staff" functions of technical guidance, progressive research, information, stimulation, audit, and appraisal of standards and of results, have limitless possibilities. Similarly, central staff responsibility for the development of general policy need not be inconsistent with executive decentralization and integration of authority down the line.

The recent assignment to the United States Civil Service Commission of responsibility for approving departmental policies for hearing and adjustment of grievances[32] is of interest as

[29] The problem has arisen in New York City as well as in the federal government.

[30] See its recommendations regarding joint conciliation bodies for adjusting grievances within the departments, *Annual Report*, 1933, pp. 11–12.

[31] Altmeyer, "The Scope of Departmental Personnel Activities," *The Annals*, January 1937, p. 190.

[32] Executive Order 7916 (June 24, 1938) provided: "Subject to the approval of the head of such department or establishment and of the Civil Service Commission he [the departmental director of personnel] shall establish means for the hearing of grievances of employees."

an example of coordination of general procedure at the level of central management. There is some tendency in the business realm at the present time toward "adopting labor policies for the whole organization rather than permitting them to be determined by each plant or division."[33] The trend is explained as an immediate result of "the increasing importance of group relations" with employees in an area in which policy and practice are relatively new. These facts tend to support the recommendation by Reeves and David[34] that general policy be formed by the Chief Executive upon the recommendations of the central personnel agency, on the basis of prior consultation with the departmental personnel officers and public hearings of employee organizations, administrative officials, and other interested parties.

Role Within the Personnel Agency

Without substantial exception, the employee relations staff in the public service, where it exists at all, is an integral part of the personnel agency. Private management has sometimes reversed this relationship, making the personnel director subordinate to the industrial relations manager.[35] The reasons given for thus expanding the responsibilities of the employee relations officer have been peculiar to private management: the volume of "welfare" activities designed to increase the loyalty and stability of the working force, and the separation of the program of relations with employees from the technical aspects of personnel administration—compensation, recruitment, service rating, and the like.[36] The prominence of the merit objective in public personnel programs has added assurance that the newly developing employee relations function will be recognized as a part of personnel administration. It is the directors

[33] Baker, *The Determination and Administration of Industrial Relations Policies*, p. 68.

[34] *Personnel Administration in the Federal Service*, p 50.

[35] Baker, *The Determination and Administration of Industrial Relations Policies*, Chapter IV.

[36] See the detailed comparison of public and private personnel administration in Graham, "Personnel Practices in Business and Government Organizations," in *Problems of the American Public Service*, especially p. 378.

of personnel who have officially advised the department heads in the formation of the employee relationship policies in the federal service.[37] The directors of personnel have, in turn, as a rule sought advice from the employee relations specialists on their own staff.

Employee relations specialists have until recently been employed only by the larger public agencies, chiefly at the federal level.[38] It would therefore be premature to draw even relative conclusions as to the size, budget, or division of labor of the employee relations staff. It appears that in the large number of local agencies, personnel directors, or the staffs of civil service commissions, will perform the role of advising management and assisting supervisors in this field. Nevertheless, the effective performance of their employee relations functions requires special experience and qualifications on the part of these personnel officers.

Broad Orientation

The ultimate implications of the trend toward increasing emphasis on employee-management relations in administration may, as the preceding observations suggest, have profound effects upon the eventual role of the personnel agency. Personnel administration is, of course, but one phase of general management. Along with the legal, financial, property, and other integral managerial responsibilities, it has been generally recognized in large organizations as a function worthy of special attention and institutional status. Administrative experts have described these various phases of general management as horizontal functions. In theory then, through the exercise of controls, they may cut across the line administration of the enterprise, or through the exercise of an authority of ideas, they may

[37] Corson and Smith, "Federal Policies on Employee Relations," *Personnel Journal*, October 1939, pp. 157–58.

[38] The Department of Welfare in New York City has a Division of Staff Relations, the director of which reports directly to the Commissioner of Welfare. This type of organization is natural where the central service commission performs a wide range of in-service personnel functions, but has as yet taken no responsibility in the field of employee relations. *Public Personnel Quarterly*, December 1939, pp. 34–35.

set standards for that line administration. These managerial functions, distinguished by some writers as "auxiliary staff services," differ from one another in numerous respects. The personnel function, however, is peculiar, in one respect vital, for our purposes here: personnel policies and practices affect directly all the persons associated with the enterprise. They are, therefore, distinctly a subject matter of joint employee and management interest. It is from this fact that the importance of employee relations as a *problem of method* in personnel administration is derived. In its broadest sense, this means that the function of personnel administration is that phase of general management through which the minimum essentials and the maximum opportunities for democratizing the administrative process are present.

Obviously, the policies and qualitative standards in this area of joint interest are conditioned by the social developments and advances prevailing in society at large. The impact of long-range social trends upon employee organization and upon governmental policy toward employee relations is evident in any history of government's dealings with its personnel. The employee relations officer must be aware of the direction of these broad forces if he is to recommend policies compatible with them and to interpret established policies intelligently to the entire staff of his agency. Some of the trends which today have a direct bearing on personnel policies are: (1) changes in the size of governmental units, (2) social acceptance of collective bargaining as a normal part of industrial management, (3) enlargement of the scope of governmental activity, including its "proprietary" functions, and (4) the continued curtailment of patronage in public employment. There are other trends which may have a less immediate influence, but which may be equally significant for the future of employee relations in the public service. Among them are: (1) the reliance upon group action to effect individual desires, (2) the recognition of administration as an essential part of democratic government, and the development of a body of knowledge concerning public administration, (3) the growing interest in a measure of economic security on

the part of the whole population, and (4) the pressure upon democratic government to demonstrate its efficiency in competition with nondemocratic systems.

If he can "put himself in the line" of such trends, and discover the others which affect personnel policies, the personnel officer charged with responsibility for employee relations will find his recommendations vindicated, over a period of years, by the pressure of forces outside as well as within his agency. More than vindication, there will be a sense of having contributed to the advance of trends which make for more efficient and more satisfying living and working relationships. A profession of public service could ask for little more.

Chapter VII

Conclusions

The Meaning of Employee Relations

In the first chapter of this report, the field of employee relations was defined from the point of view of the personnel administrator as the aspect of management which takes account of employees' reaction to their work situation to enhance the vigor and ultimate productiveness of their services in the enterprise. It is now possible in a greater degree to test the validity of this concept as it applies to the area of administration which has been reviewed. No original research has been undertaken in the experience of specific agencies or employee groups for incorporation in this report. However, two types of situations have been traced through the testimony of students of administration and administrators, and through cases which are recorded in the literature.

Practical Results

On the one hand, experiences have been recorded at all levels of government in which noticeable conflict characterized the relations between subordinates and superiors. These conflicts have been evidenced in individual complaints as well as in widespread employee dissatisfactions. In many instances employees have found outlets in appeals over the heads of administrators to the legislative body, to groups served by the agencies, or to the community at large. The functions of these agencies have been impaired, or at least jeopardized, by the negative relations between management and its subordinate staff. The United States Postal Service prior to 1921 furnishes the classic example of employee unrest, continually reaching a critical stage, which unresponsive administration induced. The passage under employee pressure of needlessly restrictive legislation or of actuarially unsound retirement laws and the constant appeal of

dismissals to the courts are characteristic of jurisdictions where administrative channels have been closed to employee proposals. The record of strikes, though not extensive, the use of public pressure, and the summoning by employees of political intervention in administrative action are generally interpreted as evidence of thwarted attempts by employees to negotiate with their superiors on individual complaints or onerous conditions of employment.

In contrast, an increasing number of government agencies have devoted serious executive attention to their relations with employees. In few instances have these employee relationship programs reached a stage at which definite evaluation is possible. The fact that they have been extended and strengthened, however, suggests that satisfactory results were achieved in terms of morale and the long-range productivity of the enterprise. Federal agencies are apparently doing much of the pioneering in this direction. Strong pleas for extending and implementing the employees' share in federal, state, and local public administration are found in the studies of those advisory bodies which constitute the pioneers of improved management.[1]

The conclusion is inescapable that employee reactions constitute a necessary concern of department heads and chief executives at all levels of government. Disregarded, or crudely dealt with, these reactions may take the form of overt and organized expressions of dissatisfaction having substantial effect on the efficiency of the service. In many more instances stagnation of employee interest and enthusiasm is the result. On the other hand, the constructive experiences of a few public personnel jurisdictions have led such men as Mosher and Kingsley,[2] Herman Finer,[3] and Henry Wallace,[4] to cite but a few, to the conclusion that a new energy can be released in the public service

[1] Katherine A. Frederic, *State Personnel Administration,* prepared for the Advisory Committee on Education (Washington: Government Printing Office, 1939), p. 201; Reeves and David, *Personnel Administration in the Federal Service,* pp. 53 ff.; Commission of Inquiry on Public Service Personnel, *Better Government Personnel* (New York: Whittlesey House, 1935), p. 29.

[2] *Public Personnel Administration,* p. 492.

[3] *The Theory and Practice of Modern Government,* vol. 2, p. 1466.

[4] "Emerging Problems in Public Administration," *American Political Science Review,* April 1940, pp. 227–28.

by expert attention to the growing pressure for internal democracy within public administrative institutions.

Growing Prominence

There is considerable evidence that the problems and opportunities of employee relations will be brought to the conscious attention of a greater number of public executives in the coming years. This evidence may be summarized under five general categories:

1. The public service is expanding; lines of supervision are lengthening. This trend is so well established that any apparent reversals can be expected to be temporary. Among its effects has been the straining of individual contacts between responsible supervisors and subordinates for the communication of official programs or of personal needs.

2. Career services are being defined, extended, and refined. It is too early for satisfaction in this regard, since more than one-fourth of all government workers are employed without fixed standards of qualification and less than one-third are within the jurisdiction of merit personnel agencies.[5] Of the latter group, only a portion has what can be called a career service in the modern sense.[6] Nevertheless the trend in this direction and the public acceptance of this goal have increased the attention on the part of both employees and administrators to the long-term satisfactions which public service vocations may offer.

3. Personnel administration is becoming a standard staff function at each level of government. At the same time attention is being devoted increasingly to in-service problems of all kinds—training, promotion, transfers, health programs, and welfare activities. It is natural that technical skill should be applied to employee relations among these other relatively new areas of personnel management.

4. Employee organization is definitely expanding and, as we have seen, is placing increased emphasis upon negotiation with

[5] The latest available figures are of 1932 in *Better Government Personnel*, p. 92.
[6] White, *Introduction to the Study of Public Administration*, pp. 296–312.

the departments or administrations on matters within their legal discretion.

5. Collective bargaining in industry has been buttressed by the legislative policy of the nation and of some states. The impact of this development has been felt in the public service partly through the strengthening and expansion of government employee organizations, but also through the higher standard which has been set, in the public mind and in the judgment of administrators, for the government's dealings with its own staff.

These trends and environmental conditions establish employee relations securely among the functions of personnel administration in all governmental units. They indicate that attention must be paid to these relations and suggest that a specialized service of information, advice, and standard-setting may be appropriate.

Significance of Collective Relations

Morale is compounded of a vast variety of conditions, only part of which are within the influence, or even knowledge, of management. Clarity of official purpose, evident urgency or importance of the service, definiteness of individual responsibilities, integrity of supervisors and their loyalty to the statutory purpose of the enterprise, "fair" compensation, and good working conditions are some of the factors within the sphere of administration which powerfully affect the zeal of the staff. This report does not seek to minimize the importance of these influences by directing attention elsewhere. The attention of personnel agencies which are consciously seeking to improve employee morale is increasingly directed, however, toward developing and implementing policies of constructive dealing with organized employees.

In a small and isolated public service agency collective relationships may be superfluous. Good administration, "family style," and close man-to-man contacts with the staff may suffice. In the current of the trends which we have reviewed, however, policies of collective dealing with employees seem to represent an indispensable approach to the task of conserving morale and

generating creative conditions in typical public enterprises. To put it in general terms, the executive (public or private) is unaware of the needs and the potential enthusiasms of his staff unless he can hear them speak with candor and independence. Difficulties inherent in the hierarchical relationship overwhelm him if he seeks to sound them out individually. In many specific situations, moreover, it is the organization of employees which first challenges the administration to take account of its employee relations. Sometimes associations of employees have been among the pressure groups which have obtained the merit system; in many cases the personnel agency finds the organizations already "on the ground floor" when policies are being defined. In no case can the administrator be sure that his staff will remain isolated from the growing movement to associate and merge personal dissatisfactions into an organized program. Hence, if the personnel officer accepts the problem of morale as falling within the sphere of influence of personnel administration, he must sooner or later determine his own attitude toward the role of employee organizations. If he recognizes their place, he will ask himself: "How can relations with organized employees be made most fruitful?" It is to these questions that this report has been addressed.

The Impact of Employee Organization

Types of Organizations

The primary consideration of the personnel agency which approaches the problem of dealing with organized employees is to understand the significance of distinctions in the nature of the organizational form. In this connection this report found it necessary to differentiate between the trade unions which include government employees in their membership but are adapted initially and primarily to collective bargaining in private industry and the organizations, both occupational and service-wide, which have grown up within the government service. The building trades, metal trades, and printing trades of the American Federation of Labor belong in the former group.

The administrator who deals successfully with these organizations must often think in terms of industrial experience, because their dealings with private employers naturally color their approach to public management. It is occasionally necessary to explore jointly with unions of this category the practical and legal distinctions between public and private employment. Such interpretation is impossible without employee confidence in the wholehearted devotion of the enterprise to the public service: they are understandably suspicious of the personal will to "hire and fire" capriciously which has too often confronted them in private employment. Public employers must, moreover, appreciate the reasonable insistence on the part of these organizations that the precedents set in public services present no threat to their hard-won standards of employment in private industry. Another necessary condition is that the problem of political manipulation of these organizations, or by them,[7] be disposed of by the extension of an appropriate merit system to craft occupations, suited to the special characteristics of the trades involved.

Legislative Program

The associations of governmental employees have demonstrated a primary, though occasionally deviating, interest in the substitution of career services for spoils systems. Since the motive on the part of the organizations is partly one of survival and growth, it is likely to remain strong and continuous. The role of organized employees in pushing to enactment fundamental personnel laws has often been indispensable. Some such legislation has been ill-considered; this seems to be true of certain retirement and pension laws. Herman Finer points out that such excesses must be expected wherever the way is blocked for civil servants to make their proposals to the legislative body through the administrative organization. If they cannot urge their views as employees, they will do so as a pressure group within the electorate.[8]

[7] *Ibid.*, p. 433.
[8] Finer, *The Theory and Practice of Modern Government*, p. 1429.

Negotiation

The employee groups themselves are inclined to answer this problem by placing a new emphasis on negotiation and collective dealing with administrators. Their approaches have been relatively successful in adjusting individual cases of alleged misapplication of rules. Negotiation upon general conditions of work is, it is generally agreed by the sympathetic observers of union activities, the promising frontier of collective action by employees where basic personnel legislation has been secured. There is a tendency on the part of observers of the civil service unions to categorize them as "dangerous" or, on the other hand, wholly "constructive forces." Perhaps the most significant conclusion of this study of the activities of employee groups is that they may take either form, depending in great part on whether they are received by the administrator as disruptive forces or as normal participants in administration. There is evidence in the recorded cases that organized employees have taken their case to legislative bodies or to the voters when, in general, they were not provided a channel of access to or were actually denied a hearing by responsible officials within the administrative ranks. It must not be supposed that these organizations will continually seek administrative remedies when the door has been shut to them on important occasions, or that well founded distrust of the motives of a particular administrator can be wiped out simply by correcting some specific situation. If employee organizations are to be permitted to measure up to their rightful aspirations, they must be regarded as typical social organisms and must be dealt with intelligently with the same degree of respect and dignity the administrator is accustomed to receive.

Boundaries of Administrative Policy

A large portion of the literature of employee relations in the public service has been devoted to definition and argument as to legal and theoretical boundaries within which these relationships have been assumed to live and have their being. Theo-

retical limitations have been argued chiefly from two political principles: governmental sovereignty and the responsibility of the civil service to the whole electorate in a democracy. As the citations of Chapter III revealed, however, a considerable body of expert thought would set these arguments aside as inconclusive. There is justification for special safeguards to preserve the continuity of certain governmental services against the threat of strikes—the same argument might apply equally well in similar private enterprises. But prohibitory laws may offer a less effective safeguard than the provision of internal avenues for the participation of employees in the determination of their destiny.

Some political theorists have urged that democracy can take the same form within the administrative hierarchy that it does in establishing legislative policy. They would propose that supervisors be elected, and working conditions determined, by employee vote. But this extreme view of the role of employees in administration has no wide acceptance in American thought. The consensus is that the public services are not bound by their governmental role either to suppress free employee organizations or to deal with them. It seems clear that political democracy provides an atmosphere unfavorable to autocratic administration. Beyond this, political theory can furnish no answer to the basic inquiry: "How shall the public administrator regard the self-organization of his staff to seek a voice in the control of their working conditions?"

Legislation

Public services have been generally exempted from recent federal and state labor legislation. Statutes affecting working conditions in private business—wages, hours, unemployment, and old age insurance—have their direct or indirect counterparts in legislation applicable to many governmental units. In addition, public employment is governed by special types of legislation—requirements of merit in appointments, restrictions of political activity, provisions for tenure in employment—which have secondary but vital effects on employee relations. No coun-

terpart exists in the government service, however, for the National Labor Relations Act and the several corresponding state laws which establish and define the status of collective bargaining in private industry. Instead, postal employees and, by analogy, other federal employees are guaranteed the right to organize (unless their affiliation commits them to use of the strike) without being penalized in employment. They also possess the explicit right to petition Congress. Some cities and counties on the other hand operate under laws forbidding strikes on the part of public employees or forbidding membership in any association which fosters strikes, or denying the civil servants access to legislative bodies in support of their interests. No legislation has been revealed which directs a governmental unit to recognize or deal with organizations of its employees or which provides penalties for what are known in the National Labor Relations Act as unfair labor practices.

A variety of policies is therefore open to the public administrator under the law and under accepted political theory: he may deal with his employees as individuals, refusing to recognize or countenance their collective efforts to improve their lot; he may tolerate employee organizations but grant them no formal status; he may recognize some types of employee groups but refuse to deal with others; or he may acknowledge the employees' right to be represented by whom they will, and foster collective relations with them as a normal part of administration.

Policies Regarding Employee Organization

Official policies denying organized representation to employees have generally disappeared from the federal service. The situation is less uniform in local governments. In a growing public service, individual relations between supervisors and subordinates are becoming more difficult to maintain. Public employees are moving slowly but surely into the stream of unionism. This is correlated in part with the trend of governmental (particularly at the federal and municipal levels) development of functions with which are associated the traditions

of collective bargaining. Employees appear to be less satisfied with a purely subordinate status as unionism grows within the government, and as public acceptance of collective bargaining in industry becomes widespread. These conditions, together with the judgments of authorities in public administration, compel the conclusion that some form of representation will be found by government employees within the administrative organization. The hazard exists otherwise that employees will be compelled to increase their recourse to political intervention to deal with supervision and working conditions which seem to them unfair.

One answer to the need for representation has been to set up employee committees under the influence of the management. Reported experience with this device in governmental agencies has been meager, and there has been a tendency for such representation systems to become weak forms even in situations closely akin to industrial employment. One explanation may be that government employees feel a strong need for representation before legislative bodies, which places a premium on large-scale independent organization.

Perhaps the most common relationship with government employees is that in which unions are accepted but are not recognized as representatives of any fixed unit of the staff. Individuals or minority organizations are free, under this policy, to seek dispensations from their supervisors regardless of the claim of an employee organization to represent them. A possible objection to this relationship has been raised by writers on public administration. If an employee organization is denied the right to represent a definite group of employees, it is also relieved of the obligation of committing them to any decision which, in concert with the management, it may endorse. Administrative officials are thus left with the task of resolving differences among employees, a role which subjects them to problems of extreme administrative delicacy.

A third type of collective relationship is that in which employee organizations are recognized as sole representatives of some particular group of the staff. Emphasis is placed on the representative role of the employee spokesman. Consequently

there is a tendency to let employees decide for themselves the questions of affiliation, union strategy, and the personnel through whom they deal. Practical objections have been raised to this type of relationship by administrators who feel that emphasis is placed on the formal question of representation at the expense of the primary consideration of the merit of the employees' case.

In evaluating this objection, account should be taken of the tradition of organization in the enterprise and of the effects of a looser form of representation upon the strength and discipline of the employee organization and upon the long-term morale of the entire service. Employee dissatisfaction with indefinite or informal representation is likely to be overwhelming in public enterprises where traditionally unionized services predominate. This is an issue upon which original investigation should shed new light, particularly since collective relations in private industry are now subject to a growing body of administrative law based upon the policy of exclusive representation as determined by a majority of the workers.

Administrative Restrictions on Employee Organizations

Restrictions on Affiliation

In the majority of cases American law and governmental policy give free reign to public servants in allying themselves with outside labor groups as well as in forming independent associations or remaining outside all organizations. An exception has occasionally been made in the case of firemen or policemen, but the peak of anti-affiliation attitudes which followed the Boston police strike is subsiding in noticeable degree. This practical situation is approved by a substantial group of the writers on public administration for reasons which can be summarized as follows:

1. Unless affiliated with workers outside the public service, local organizations of government employees may find that they are discounted by legislative bodies as "special pleaders" regardless of the merits of their case.[9]

[9] The President of the National Federation of Federal Employees states that he has experienced no such difficulty as a result of the independence of the NFFE from the general labor movement.

2. Where prevailing rates establish the standard for governmental wage levels, the public employee depends in part on the activities of unionists in private employment to maintain and improve his own level of earnings.

3. Employees may legitimately regard affiliation as an important compensation for the special checks traditionally placed upon the government worker, such as renunciation of strikes and prohibitions of political activities.[10]

4. There are great values in terms of employees' sense of responsibility for the quality of employee relations and their respect for the good faith of personnel management in maintaining their right to representation through unions of their own choosing. The significance of this point is enhanced by the fact that there may be strong differences among employee groups concerning the validity of the arguments listed above.

Limits Upon the Designation of Representatives

Very little formal objection has been raised by management to the designation by employee groups of any spokesman acceptable to them, whether or not he be an employee of the agency concerned. Acceptance of union organizers or officers as employee spokesmen may be based on the precedent of allowing public servants to retain outside counsel. There is testimony, in any case, that advantages are opened to the administrator in dealing with experienced representatives who bring some perspective to bear upon local issues between supervisors and employees. Here again, there seems to be little support for a policy that would restrict employee discretion in a matter which they consider peculiarly their own concern.

Prohibition of Strikes

Federal law contains no direct prohibition of strikes on the part of federal employees, although some limited statutes

[10] The President of the NFFE writes: "Measured against the important compensation is the unquestioned unfavorable reaction which repeatedly is met with on account of action of groups with which the public employees are affiliated but over which they have no control, and in fact may not agree. This is a fact, not a theory. In the federal field prohibition against political activities does not circumscribe activities of employee organizations in support of or in opposition to legislative proposals affecting their own interests."

(against interfering with the mails, or "enticing from their work" employees in federal armament establishments) have been invoked effectively against strikers in the federal service. Municipal ordinances occasionally prohibit strikes on the part of city employees, but such prohibitions are not the rule even in the case of fire and police departments. Administrative policies generally support the view that the strike is out of place in government service, and this view has apparently been shared by the public in general. However, this view has not always been dominant in specific strike situations. The doctrine of the illegality of strikes of government employees has come into question in so-called proprietary services and government corporations and has been widely disregarded in dealings with skilled tradesmen in municipal employment. Correspondingly, there is no single policy among organizations of public employees. Unions which have a preponderance of their membership in private employment where strikes are a traditional right make no exception in favor of their governmental employers, whereas the organizations of strictly public employees are unanimous in their rejection of the strike as a tactic.

In the presence of such self-imposed restraints upon striking by government employees and the hostile atmosphere of public opinion regarding such strikes, some authorities (notably Ziskind, Friedrich and Cole, and Leonard D. White) feel that further statutory prohibition would be out of place. Not only do they consider such bans superfluous, and apt to place a needless negative emphasis upon employee relations, but they question whether such laws are capable of enforcement in the extreme situations which would lead to their violation. Other writers, among them Lewis Meriam, Mosher and Kingsley, William C. Beyer, and Lewis Mayers, advocate legislation which would clearly prohibit strikes on the part of public employees, in order to protect the continuity of public functions. These same authorities agree, however, that such prohibitions should be adopted only in the presence of positive outlets for employee complaints and desires. Attention is consequently directed to such channels for the expression of employee interests within the service.

Methods of Employee Participation in Public Management

In a growing number of instances employees have been granted, or have achieved, participation in both aspects of personnel administration—the interpretation of personnel policies in individual disputes and the determination of broad conditions of employment. In the former field, subject matter and machinery of joint action have been defined with some clarity, but employee responsibility in shaping personnel policies is generally in the process of experiment and development.

Joint Adjustment Procedures

The reasoning which has led to the formation of grievance appeals plans in six federal agencies within the last seven years, and in a large number of local government services, is based on at least three objectives:

1. To assure uniformity of interpretation of personnel policies by supervisors who are necessarily somewhat removed from the source of policy formulation.

2. To enhance employee loyalty and enthusiasm by establishing access to officials who are beyond suspicion on grounds of personal jealousy or petty tyranny.

3. To remove an important cause of political intervention on behalf of dissatisfied employees.

On the other hand, there has been a widespread fear that appeals of supervisory decisions to higher authorities may weaken the supervisor's authority while continuing to hold him responsible for the efficient performance of his staff. The reality of this danger seems to depend on the type of appeal machinery provided. Where joint adjustment committees are developed within the administrative hierarchy, or where the personnel director is made responsible for hearing and deciding appeals, the effect generally has been to enhance the supervisor's responsibility by subjecting his decision to the review of his administrative superiors. Emphasis is placed in these appeals systems on the desirability of settling grievances at the point of origin—usually between the employee and his immediate supervisor.

Local governments are still, on the whole, more concerned with eliminating political interference than with upholding supervisory responsibility. Systems of appeals to courts or to outside boards of review have therefore been adopted. These bodies normally have the power of making mandatory decisions, usually on the question of the sufficiency of evidence or propriety of procedure which led to the administrative act in question, but sometimes on the substance of the case. These systems are consequently in disfavor among the exponents of effective public management and are being replaced in a few instances by internal reviewing bodies.

Negotiation on Conditions of Employment

The traditional view of public employment has been that "the employer is the whole people" and that conditions of employment therefore should be determined by legislative bodies. Important matters, however, which are subjects for collective bargaining in private industry, have often been left to administrative discretion. Hours of work, overtime policies, rates of pay within classification grades, the wages of skilled trades and labor employees, and grievance procedures are notable examples. The practice of joint research and negotiation on prevailing rates of pay is of long standing in some parts of the federal service. Direct negotiation has taken place in recent years on an increasing variety of working conditions not precisely defined by statute. There are only isolated instances, however, of the development of multi-purpose standing councils of employee organizations and administrative officials corresponding to the British Whitley Councils.

The specific reasons for the comparatively undeveloped status of employee-management consultation in American governments can probably be found among the following factors:

1. Relatively limited administrative discretion in matters of compensation

2. Division of responsibility in personnel matters between the department head or chief executive and the civil service commissions

3. A feeling on the part of administrators that consultation

with employee organizations may lead to dissipation of authority and delay in action

4. Lack of development, on the part of a large number of public employees, of interest and experience in collective action.

On the other hand, the testimony of students and practitioners of public administration has urged that there are several potential gains to be had through a consultative process. The chief advantage lies in the greater understanding and support of policies arrived at through negotiation. The intelligent application of policies by supervisors down the line can be facilitated, and the adherence of the subordinate personnel assured, if they are enlisted in the deliberative process by which work rules are formulated. Joint conferences provide a medium for the communication of official objectives, programs, and legislative requirements as well as for the expression of employee interests.

The unions are devoting a large proportion of their energies to negotiation with administrators. They are apparently convinced that significant improvements can be made in conditions of employment which are administratively determined. Suggestions have been made, in addition, that consultation between management and organized employees be made a step in the process by which recommendations for important legislation affecting the conditions of employment are prepared for the legislative body. The object of these proposals is to reconcile the interests and to profit from the suggestions of all groups within the administrative hierarchy.

The most pressing question in the minds of public administrators and personnel officers is the degree of authority which employee groups may command in negotiation without jeopardizing the responsibility of the public agency: Can collective bargaining in the commonly accepted sense be practiced in the public service? The answer to this question is not clear. The characteristics of collective bargaining are present in the public service to some degree. There is a preponderance of testimony that employees and administrators of public enterprises have distinctive joint interests in some aspects of public administra-

tion. Employee organizations can always resort to certain pressures—appeal to the public, or to members of legislatures—although their bargaining powers cannot be quickly brought into play as they can in private industry. We may judge that the difference between private and public services in regard to collective bargaining is one rather of degree than of kind, and the successful experience of both newly created and long-standing negotiation procedures in public services points to the opportunity for much wider experimentation in this respect. Certainly no public official need feel legally prohibited from tapping the resources of adherence to established policies which is afforded by free employee participation in the shaping of these policies.

Contracts with Employee Organizations

It is now generally accepted that explicit, frank statements of personnel policy are basic in assuring the confident adherence of employees and intelligent application by the supervisory line. In view of the desirability of employee participation, to a greater or less degree, in policy formation, there is question concerning the propriety of incorporating negotiated policy in contracts with employees. The legality of such contracts is in dispute in the absence of laws authorizing governmental units to undertake them, and such enabling acts are very exceptional. Where such contracts are considered legal, they are nevertheless subject to invalidation by legislative action. Contracts will undoubtedly continue to be demanded and in many cases secured by those unions in the public service which have long regarded the written contract as the touchstone of good faith in employee-management relations. For the most part, the employee organizations which have developed within the government service, however, are at present apparently satisfied with exchanges of correspondence and unilateral statements of policy on the part of administrative officials as the means of enunciating agreements on general conditions of employment. The vehicle of the agreement appears to be regarded as far less important in the public service than the process by which joint conclusions are reached

and the care which is taken to inform the entire staff of the substance of these conclusions.

The Closed Shop in Collective Agreements

The issue of union membership as a condition of employment has largely remained a theoretical one in the public services. The fact that organizations of government employees have demanded, and even secured, such a provision in several jurisdictions, however, raises the question of the propriety of such a consideration in negotiations of employees and public management on the conditions of employment. In part, the lack of demand for closed shops reflects the relatively limited bargaining power of many associations of public employees. Even where they are strongly organized, however, most of the organizations of government employees have been silent on the question of the closed shop. It may be that the dependence of public employees on legislative as well as administrative decisions concerning their conditions of employment deprive the closed shop idea of a part of the strategic significance which it carries in private industry.

There still remains the theoretical argument for the closed shop which holds that all those who benefit from collective negotiation and cooperation with the management should be required to share in the costs if not in other responsibilities of these activities. Over against this, however, is set the principle of public personnel administration which places obligations upon the public agency, both in theory and through statutory requirements, to employ the best qualified candidate available through open competition, and to discharge him only for misconduct or inefficiency. These legal requirements go beyond those assumed by private management in its adherence to formal merit systems in appointment. They are deemed incompatible with closed shop or union shop policies unless union membership is construed as a minimum criterion of meritorious performance along with training and experience. No such interpretation has as yet been made by civil service commissions or personnel agencies, nor have unions placed their requests for closed shop agreements upon this basis in any substantial number of

instances. Inconsistency with recruitment by open competitive examination is a barrier to the legality of closed shop agreements in most civil service jurisdictions, over and above the question of the propriety of making written agreements with employees. The union shop, whereby employees are required to join an organization within a stipulated period after appointment, may be a legally acceptable alternative in some quarters. It is likely that definitive decisions will be made by the courts on these questions in the future, particularly in the case of the New York City subway service.

Meanwhile, the merits of the closed shop or union shop need exploration and appraisal as to their legality, their theoretical implications, and their results in practice in the few governmental services where they are in force. It is not possible at this stage to suggest a conclusion on the desirability of the closed shop as an employee relations policy on the basis of empirical study. From the long-range point of view, there is considerable testimony that the closed shop will remain an academic issue to the extent that open standards of employment are uniformly adhered to and the representative role of employee organizations is respected as a permanent policy.

Role of the Personnel Agency in Employee Relations

It is evident from our discussion of the formulation of employee relations policies that the major decisions which determine the quality of employee relations must be decisions of the central management of each public agency. Much of the tone of these relations is set by the effectiveness of personnel administration, particularly by its in-service aspects. The ultimate test of employee relations is the contact between employees and their first line supervisors. Nevertheless, it is now recognized that this is a function which merits specialized staff attention through the personnel agency.

Responsibility of the Employee Relations Staff

The character and organizational status of the employee relations staff are determined in general by its three fields of activity: advising the chief executive in his decisions as they

affect employee relations, administering established employee relations policies, and adjudicating individual disputes as they may arise in these processes.

In its advisory capacity, the employee relations staff functions partly as a source of expert knowledge concerning the activities and programs of employee organizations, the statutory limits of employee relations, the potential contribution of collective employee participation in administration, and the types of machinery by which this contribution can be effectuated. The employee relations expert, however, would be the first to disclaim any intention of imposing a blueprint set of policies on the agency which he serves. His more important responsibility is one of leadership and procedural ingenuity: he must enlist the active collaboration of employee groups and supervisors alike in policy formulation. In this regard he must provide a stimulus to joint effort. As a participant in the conference in which negotiation takes place, he helps to maintain and perfect the machinery of consultation. If he fails to take the initiative in securing this wide sharing of the responsibility of recommending policies to the chief executive, he will have a herculean task when these policies are applied and interpreted by supervisors and employees throughout the enterprise.

Since policies governing employee relations are usually adopted by the central management, the responsibility for their enforcement rests squarely on the administrative line. Yet the pressure of varied duties of the acting executives and their divergent backgrounds in the field of employee relations render the interpretive functions of the employee relations staff invaluable. The second major job of the employee relations staff is consequently in the area of administering established policy. In part, the task is one of deciding the meaning of policies in specific, day-to-day situations which are referred to the personnel agency by supervisors or employees. In a few activities, the employee relations staff may have direct responsibility—the so-called welfare activities or certain types of counseling. But its function even in these areas is to stimulate, coordinate, and advise rather than to perform. When projects administered

jointly by employee associations and management are launched —wage surveys, health plans, retirement systems, and the like— the personnel agency in its employee relations function is the primary point of contact of the management with the joint board or committee. But the major role of the employee relations staff is to train supervisors by the broadest methods to apply established policies skillfully in their daily relations with subordinates. No one can do this part of the supervisor's job for him.

In the process of recommending policies to the head of the enterprise, or in interpreting policies in individual cases, disputes may arise among employees as to proper representation, or between employees and their supervisors as to the merits of individual personnel actions. The decision of these cases may be a third function of the personnel agency in the field of employee relations if, as a matter of fact, the contesting employee groups have confidence in the objectivity of the personnel agency and so signify. Questions of representation (What is an appropriate unit for employee representation? and Who is the duly constituted representative of that unit?) are questions in which management as such should not have a controlling interest. Consequently, provisions should be made for appeal of these cases to mutually acceptable mediators outside the agency in order that a process of election can be carried on by which employees will conclude the issue by majority choice. Problems of majority representation will not arise, as a rule, unless administrative policy recognizes the formal status of employee organizations in collective presentations.

The application of employee relations policies, however, and the interpretations which must be made to specific situations are acknowledged (except in certain local jurisdictions where direct appeal to the courts is still provided) as the responsibilities of the administrative hierarchy. The provision of an appeals ladder, affording final review of supervisory action by the chief executive, or by the personnel agency as his representative, reinforces rather than replaces this line of responsibility. It is now generally recognized that an advisory appeals committee

constituted with representation by both employees and the supervisory staff may serve an important educational function for both employee representatives and participating superiors and, at the same time, assure the objectivity of decisions. Such advisory bodies derive their effectiveness from the fact that they do not short-circuit the responsibility of the supervisor to take personnel action in accord with established policy, nor assume the function of the personnel agency in final review of specific decisions. The scope of this ultimate review is increasingly being extended to all questions upon which the uniform and skillful application of policy hinges, including the very competence of supervisors to observe the standards established for employee relations.

Organizational Implications for the Employee Relations Staff

The basic nature and institutional status of the staff with which these responsibilities are lodged are determined in general by the duties themselves. It is still too early to establish standards for the size, budget, or specific duties of such staffs—matters which depend on such factors as the number and significance of joint employee-management projects, the administrative responsibilities which are delegated to the employee relations staff, and the degree of specialization of the personnel staff as a whole.

The primary requirement, which is inherent in the duties of employee relations, is that the chief of the staff be among the closest advisers and subordinates to the chief executive. No other arrangement can provide adequate recommendations to the central management on the multitude of over-all decisions in which employee relations is an important factor, nor assure that the employee relations policies have the full support of the administration. In public agencies it is the director of personnel who logically occupies this position.

Personnel commissions have, in several instances, taken this role successfully, but their detachment from the chief executive, considered purely from the organizational viewpoint, must remain a handicap. The difficulties are that the executive may

make decisions vital to employee relations without benefit of advice from or follow-up by the personnel commission, or that the various departments (if the jurisdiction is large) may be forced to formulate their own employee relationship policies with only such staff aid as is at their disposal. Outstanding progress has been made by the latter approach in the larger jurisdictions, but this should not obscure the further opportunities for improved employee relations which might flow from the formulation of minimum general standards among departments, and the formulation of such model general employee relationship policies by the same methods of active consultation with the supervisory staff and employee representatives which have proved effective at the departmental level. Nor should it prevent a far greater assumption of staff responsibilities for employee relations by those commissions which have not hitherto recognized the opportunities in this field. It is clear that employee relations can be significantly improved by civil service commissions, and in the majority of public jurisdictions there is no one else to do the job.

Employee relationships are not of themselves activities, but methods of approaching the personnel responsibilities of management. As such it is natural not only that employee relations be a function of the personnel agency, but that if a specialized employee relations staff is retained within the personnel agency, it bear a relation to the director of personnel which corresponds to his relation to the chief executive.

The fact that words and principles have been loosely used in the field of employee relations, and the fact that traditions and emotions play a large part in the success of any program which utilizes employee reactions, also have certain implications for the employee relations staff. The individuals to which these responsibilities are delegated must be able, as any staff officer must, to persuade, stimulate, and advise upon the authority of knowledge and experience alone. But to an unusual degree, the employee relations staff must have the confidence of supervisors and employees in their collective role, groups which may think in totally different terms. Backgrounds of open and con-

structive dealing with both groups are of unusual importance.

The question may arise, as it has in private industry, whether the increasing prominence of joint action by employees and the administrative line reduces the responsibilities of the employee relations staff. As experience develops in the public service along the lines which this report has traced, the experience of employee relations in business indicates that the role of the personnel agency will become a more prominent one. The best prediction is that the need for special knowledge, for dissemination of agreements down the line, and for advice on the meaning of broad policies in individual cases will grow as employee interests are recognized and heard on more varied and important decisions. Employee relations will increase as a dynamic and constructive force in government administration as long as it feels the impact of the collective programs of employees and the mounting standards of performance in the public service. Whether, in the long run, the public service becomes a career service may depend more upon the quality of leadership in the approach to democratized administration of employee relations than upon the legislative prohibitions against the spoils system.

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An original account of the facts concerning 1116 strikes in public services upon which public policy should be based. The analysis and interpretation includes discussions of the commonly-accepted distinctions between public and private employment, the attitudes and objectives of employee organizations and government officials, the technique of strikes and settlements, the legal aspects of government strikes, and the causes of strikes.

AREAS OF COLLECTIVE DEALING

ASSOCIATED INDUSTRIES OF MASSACHUSETTS. "Fundamentals of Employer-Employee Relations," *Bulletin* of the Taylor Society and the Society of Industrial Engineers, New York, May 1935, pp. 140–44.

Written for private employers. The list of desirable provisions of an employee relations policy is of some service to a government personnel agency.

BROWNE, HAROLD F. *The Closed Shop.* New York: National Industrial Conference Board, 1939, 18 pp.

Advantages and disadvantages as expressed by executives in 192 plants of which 102 have union agreements and 19 have closed shop agreements. Excellent analysis of theoretical merits and disadvantages.

BUREAU OF INDUSTRIAL RELATIONS, UNIVERSITY OF MICHIGAN. *Selected Statements of Labor Policy.* Ann Arbor, 1938, Parts I and II.

Quotations from stated employee relations policies in industry, arranged by subject matter. A few union agreements are quoted.

COMMONS, JOHN R. *Labor and Administration.* New York: Macmillan, 1913, 431 pp.

Chapter VII, "The Union Shop" has an incisive analysis of role of closed or union shop in government employment. Chapter VIII, "Unions of Public Employees," is an elementary argument for organization, but against strikes, on the part of government employees. Chapter XII, "Labor and Municipal Politics," includes interesting speculations on unions as a defense against patronage. Several early cases are described.

GOODELL, FRANCIS. "Joint Research Under a Collective Bargaining Agreement," in Henry C. Metcalf, ed., *Collective Bargaining for Today and Tomorrow.* New York: Harper and Brothers, 1937, pp. 56–72.

Brief statement of the philosophy of bargaining which results in joint investigation of mutual problems without submission to authority. Good description of joint conference technique.

HALL, MILTON and MACKENZIE, H. A. "Telling Employees about Personnel Policy," *Personnel Administration,* September 1939, pp. 10–11.

Summary of the Farm Credit Administration personnel policy. Its purposes are listed.

JOINT COMMISSION ON RECLASSIFICATION OF SALARIES. *Report.* 66th Cong., 2d sess., H. Doc. 686, 1920.

Contains recommendation for joint employee-management council similar to Whitley Councils.

MACMAHON, ARTHUR W. "The New York City Transit System: Public Ownership, Civil Service, and Collective Bargaining," *Political Science Quarterly,* June 1941, pp. 161–98.

A comprehensive review of the situation, including the personalities and political issues involved as well as the broad consideration of principle.

MARITIME LABOR BOARD. *Report to the President and to the Congress.* Washington: Government Printing Office, 1940, 262 pp.

The history, law, and governmental policy of collective bargaining in the maritime industry. Policies of the U. S. Shipping Board as an employer during the first World War, and of the U. S. Maritime Commission since 1939 bear directly on the issues of collective bargaining in the government service. The entire industry is characterized by an urgency of performance and necessity of clear authority that make it a useful parallel.

METCALF, HENRY C. "Employee Representation," *The Annals* of the American Academy of Political and Social Science, March 1936, pp. 184–91.

Discusses techniques of representation for private industry. No examination of basic assumptions of employee rights and responsibilities.

NATIONAL LABOR RELATIONS BOARD (old Board). *Decisions,* Volume 3, July 9 to December 31. Washington: Government Printing Office, 1934, pp. 24 ff.

AFGE ex. rel. John L. Donovan v. *Hugh S. Johnson, Administrator for National Recovery.* Arbitration of a case of union discrimination in the NRA administrative organization.

NATIONAL LABOR RELATIONS BOARD. *Written Trade Agreements in Collective Bargaining.* Washington: Government Printing Office, 1939, 359 pp.

A broad discussion of the essentials of collective bargaining, historical development of the written agreement, and its form and content. Useful background to consideration of bilateral agreements in the public service.

NEW YORK CITY CIVIL SERVICE COMMISSION. "Dismissals Procedure in the Department of Welfare in New York City," *Public Personnel Quarterly,* December 1939, pp. 34–35.

Describes an appeals procedure involving a hearing by the Director of Staff Relations and an appeal to a board of impartial outsiders. An example of departmental responsibility for employee relations at the municipal level.

PERSONNEL CLASSIFICATION BOARD. *Closing Report of Wage and Personnel Survey.* Washington: Government Printing Office, 1931, 404 pp.

Chapter IX includes the fullest available description of wage board procedures in War, Navy, and Interior Departments and in the Panama Canal.

PETERSON, FLORENCE. "Adjustment of Labor Disputes," *Monthly Labor Review,* November 1939, pp. 1023–44.

The best short outline of terminology and history of conciliation and arbitration agencies, federal and local, for private industry. Judicial bodies, like NLRB, are excluded.

SILCOX, F. A. "Complaints," in U. S. Department of Agriculture Graduate School, *Elements of Personnel Administration.* Washington, 1935, pp. 65–74.

Excellent inferences on methods of handling grievances from his own experience in industry and as Chief of the U. S. Forest Service.

UNITED STATES DEPARTMENT OF AGRICULTURE. "Personnel Relations Policy and Procedure," Memorandum No. 753, Revised, April 4, 1940, 7 pp., mimeographed.

Policy and procedure for adjustment of grievances, including appeals of service rating and classification.

UNITED STATES HOUSING AUTHORITY. "To All Employees of the United States Housing Authority," September 1, 1938, 1 p., mimeographed.

A brief statement of employee relations policy.

WESTWOOD, HOWARD C. "The 'Right' of an Employee of the United States Against Arbitrary Discharge," *George Washington Law Review,* December 1938, pp. 212–32.

Comprehensive analysis of cases denying employee appeals under tenure provisions of Civil Service Act of 1883 and Lloyd-LaFollette Act of 1912.

WHITE, LEONARD D. "The British Civil Service," in L. D. White, ed., *Civil Service Abroad.* New York: McGraw-Hill, 1935, pp. 1–54.

Good brief statement of functions of Whitley Councils, Arbitration Courts, and unions.

WHITE, LEONARD D. *Whitley Councils in the British Civil Service.* Chicago: University of Chicago Press, 1933, 357 pp.

An exhaustive study, containing abundant case material, and analyzing the implications of the movement for governmental authority, employee organization, and morale.

THE ROLE OF THE PERSONNEL AGENCY IN EMPLOYEE RELATIONS

ALTMEYER, A. J. "The Scope of Departmental Personnel Activities," *The Annals* of the American Academy of Political and Social Science, January 1937, pp. 188–91.

Clear definition of duties of personnel agency in operating departments as distinguished from central recruiting agency. Draws on his experience as Chairman of the Social Security Board.

BAKER, HELEN. *The Determination and Administration of Industrial Relations Policies.* Princeton University, Industrial Relations Section, 1939, 74 pp.

A descriptive, non-statistical study of 100 companies of various size in assorted manufacturing industries and public utilities. The study aims "to show *how* and *by whom* policies are determined and administered" in the field of industrial relations. The content of policies is incidental. The material is relevant to public personnel administration, both as to essential principles of organization and adaptation to agencies of varying size, varying combinations of functions, and degrees of decentralization. Contains a selected, annotated bibliography.

BAKER, HELEN. "The Industrial Relations Executive and Collective Bargaining," *Society for Advancement of Management Journal,* July 1939, pp. 105–07.

Excellent summarization of *The Determination and Administration of Industrial Relations Policies* which recounts its conclusion.

CHESTER, C. M. *Management's Responsibilities in Industrial Relations.* New York: American Management Association, 1939, 14 pp.

The Chairman of the Board of General Foods Corporation indicates the reasons for assumption of responsibilities for industrial relations by the administrative line.

CLAPP, GORDON R. "A New Emphasis in Personnel Administration," *The Annals* of the American Academy of Political and Social Science, January 1937, pp. 111–18.

Indicates the role of personnel agency in clarifying organization structure and utilizing the potential constructive services of employee organizations in the development of an effective working force. Draws on TVA experience.

GRAHAM, GEORGE A. "Personnel Practices in Business and Government Organizations," Monograph No. 11, in *Problems of the American Public Service.* New York: McGraw-Hill, 1935, pp. 337–433.

Fifty-seven personnel programs, public and private, compared as to testing supervisory training, efficiency rating, etc. One section compares the organizational relationships of the personnel agency in business and public management.

HENDRICKSON, ROY F. "Employee Relations," *Personnel Bulletin,* U. S. Department of Agriculture, Volume 1, No. 2, May 1940, 4 pp.

Describes the revised procedure of the Department for appeal of grievances. Stresses the responsibility of line supervisors in employee relations.

HENDRICKSON, ROY F. *The Personnel Program of the United States Department of Agriculture,* Pamphlet No. 15, Civil Service Assembly of the United States and Canada, October 1939, 20 pp.

An excellent example of decentralized personnel administration under centrally established policies. Includes a brief account of the grievance adjustment procedure of the Department.

LITTLE, ELEANOR H. "Some Contributions from Connecticut," *Good Government,* May–June 1939, pp. 32–36.

Illustrates problem of relation between personnel agency and the departments served in connection with employee appeals. See also "Connecticut," in *A Digest of State Civil Service Laws,* Special Bulletin No. 15, Civil Service Assembly of the United States and Canada, 1940.

MERIAM, LEWIS. *Public Personnel Problems from the Standpoint of the Operating Officer.* Washington: The Brookings Institution, 1938, 440 pp.

Chapters 9 and 10, pp. 225-82, present a practical approach to problems of employee rights and labor relations programs.

MERIAM, LEWIS. *Personnel Administration in the Federal Government.* Washington: The Brookings Institution, 1937, 62 pp.

Criticism of the report of the President's Committee on Administrative Management and specifically *Personnel Administration in the Federal Service* from the viewpoint of the separation of powers doctrine.

REEVES, FLOYD W. "Essentials of a Model Personnel System," *The Annals* of the American Academy of Political and Social Science, January 1937, pp. 134–41.

Outlines personnel functions under the headings: administrative, developmental or advisory, and quasi-judicial. Valuable comment on relation of personnel agency to chief executive.

SHORT, OLIVER C. "Public Personnel Agencies," *The Annals* of the American Academy of Political and Social Science, January 1937, pp. 104–10.

Brief catalogue of activities of federal, state, and municipal personnel agencies; their organizational structure and relationships. Mentions judicial functions of the civil service commission in employee appeals.

SLOCOMBE, CHARLES S. "Personnel Work and Employee Representation" *Personnel Journal,* October 1936, pp. 136–42.

Cases illustrating the point that personnel agency should stimulate direct negotiation and exchange of information between employees and management without acting as advocate of either.

TEAD, ORDWAY. "New Duties in Personnel Work," *Personnel Journal,* June 1937, pp. 36–45.

The impact of collective bargaining, as a broad economic trend, upon personnel work. Also published in H. C. Metcalf, ed., *Collective Bargaining for Today and Tomorrow.* New York: Harper and Brothers, 1937.

TIPPET, TOM. "The Essentials of an Employee Relations Program," *Personnel Administration,* April 1940, pp. 1–6, and May 1940, pp. 5–10.

The Employee Relations Officer of the Work Projects Administration describes in these two articles the setting, policies, and organization of the employee relations program in that agency. Assistance to employees and supervisors through interviews on specific cases is emphasized.

URWICK, L. "Organization as a Technical Problem," Chapter II in Luther Gulick and L. Urwick, eds., *Papers on the Science of Administration.* New York: Institute of Public Administration, 1937, pp. 47–88.

Excellent statement of the meaning of "staff" drawn principally from military experience and of the exact contribution such functional services as personnel can make to central management.

UNITED STATES DEPARTMENT OF AGRICULTURE. *Employee Activities.* Washington, March 1939, 21 pp., planographed.

Directory of graduate school, welfare, and recreation activities.

UNITED STATES DEPARTMENT OF AGRICULTURE. "Memorandum to Chiefs of Bureaus and Offices," July 21, 1938, 10 pp., mimeographed.

A statement of the organization of the Office of Personnel, including the Division of Personnel Relation, Safety, and Health.

UNITED STATES HOUSING AUTHORITY. "Order No. 69," February 24, 1938, 8 pp., mimeographed.

Defines the powers, functions, and duties of the Personnel Administration Section.

UNIVERSITY OF MICHIGAN, BUREAU OF INDUSTRIAL RELATIONS. *Elements of Labor Policy.* Ann Arbor, 1938, 70 pp.

Summary of addresses and discussion on the importance of labor policies in industry, means of developing and administering policies and specific types of policies.

WALLACE, HENRY A. "Emerging Problems in Public Administration," *American Political Science Review,* April 1940, pp. 217–31.

A broad and imaginative statement of the importance of public management and its relations to major changes in the national and international economy. The role of staff officers is emphasized.

ZAPPOLO, FRED. "Employee Relations in the Work Projects Administration," *Public Personnel Review,* July 1940, pp. 35–41.

The Director of Personnel of the Work Projects Administration describes the techniques and organizational status of his personnel relations office. A strong program of individual counseling and assistance is emphasized.

RESEARCH AIDS

BAKER, HELEN. *A Trade Union Library.* Princeton University, Industrial Relations Section, 1935, 26 pp.

Bibliography. Contains a short section "Government and Labor"; not annotated.

CORSON, JOHN J. *Research in Employer-Employee Relations in the Public Service.* New York: Social Science Research Council, 1940, 35 pp.

A research outline indispensable to the study of employee relations as practiced by public agencies at all levels. Both the scope and methods of research are suggested. A brief introduction to each topic refers to leading sources. Attention is devoted to the employee relations aspects of service rating, training, promotion and transfer, and other personnel activities of strong interest to employees.

HOME OWNERS LOAN CORPORATION, PERSONNEL DEPARTMENT. *A Bibliography on Employee Relations.* Washington, 1939, 26 pp.

Largely material on employee relations in business. Annotated but not arranged by subject.

LIBRARY OF CONGRESS. *A List of References on the Civil Service and Personnel Administration in the United States: Federal, State and Local.* Washington: Government Printing Office, 1936, 91 pp.; *Supplement,* 1939, 55 pp.

Thorough bibliography including Congressional speeches and hearings, newspaper articles, and departmental publications. Not arranged by subject.

Supplementary References: 1947

FOLLOWING is a brief supplementary list of material dealing with employee relations that has appeared since the original publication of *Employee Relations in the Public Service* in 1942. In the intervening period a very considerable amount of literature on the subject has been written, and this list makes no pretense at completeness of coverage. It should be useful, however, as a guide to the reader interested in reviewing some of the more recent relevant material in this field.

AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES. LIBRARY. *Working Agreements Currently in Effect between A.F.S.C. and M.E. Local Unions and Local Units of Government.* Federation Building, Madison 1, Wisconsin, July 1, 1947. unpaged. mimeographed.

AMERICAN MANAGEMENT ASSOCIATION. *Checking the Effectiveness of Employee Communication.* 330 West 42nd Street, New York City 18, 1947. 46 pp. Personnel Series No. 108. $1.00.

——.*Economic Factors in Labor Relations.* 330 West 42nd Street, New York City 18, 1946. 42 pp. Personnel Series No. 102.

——.*Working with Unions; Grievance Procedures.* W. I. McNeill and Others. 330 West 42nd Street, New York City 18, 1942. 27 pp. Personnel Series No. 57.

AMIDON, BEULAH. "Strikes in Public Employment." *Survey Graphic,* May, 1946. pp. 153-55.

ASPLEY, JOHN C. and WHITMORE, EUGENE. *Industrial Relations Handbook.* The Dartnell Press, Chicago, 1943. 1055 pp.

BALDWIN, ROGER N. "Have Public Employees the Right to Strike? —Yes." *National Municipal Review,* September, 1941. pp. 515-17.

BEYER, OTTO S. "Employee Relations in the Public Service—Present and Future." *Public Personnel Review,* January, 1946. pp. 19-24.

FELDMAN, HERMAN. "Public Employees and Unions." *National Municipal Review,* April, 1946. pp. 161-65.

FLAXER, ABRAM. "Collective Bargaining in the Civil Service." *Survey Midmonthly,* April, 1942. pp. 111-13.

HARRIS, HERBERT. "Collective Bargaining in the Local Public Service." *American City,* January, 1946. pp. 89-90.

HERON, ALEXANDER R. *Sharing Information with Employees.* Stanford University Press, Stanford University, California, 1942. 204 pp. $2.50.

HILL, LEE H. and HOOK, CHARLES R., JR. *Management at the Bargaining Table.* McGraw-Hill, Inc., New York. 1945. 300 pp. $3.00.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE. *Police Unions and Other Police Organizations.* 918 F Street, N. W., Washington 4, D.C., September, 1944. 30 pp. Bulletin No. 4. 50¢.

KAPLAN, H. ELIOT. "Have Public Employees the Right to Strike? —No." *National Municipal Review,* September, 1941. pp. 518-23.

MACLEISH, ARCHIBALD. "Library of Congress Employee Relations Program." *Personnel Administration,* May, 1943. pp. 6-7.

MACMAHON, ARTHUR W. "Collective Labor Action in City Government." *Public Management,* November, 1941. pp. 328-34.

MCCLURE, RUSSELL E. and GUNTER, ELDER. "An Experiment in Employer-Employee Relations." *Public Management,* July, 1944. pp. 194-97.

MASSACHUSETTS. GENERAL COURT. *Special Commission . . . For an Investigation and Study Relative to Adjustments of Grievances of Employees of the Commonwealth and to the Maintenance of Employees in the Several Institutions of the Commonwealth . . .* Report of . . . Legis. Doc. Rm., 428 State House, Boston, January, 1945. 25 pp. House No. 5.

MOONEY, PAUL. *Profitable Labor Relations.* Harper and Brothers, New York, 1946. 209 pp. $2.50.

NATIONAL CIVIL SERVICE LEAGUE. *Employee Organizations in the Public Service.* 67 West 44th Street, New York City 18, 1946. 31 pp. 25¢.

NEW YORK (CITY) MAYOR'S ADVISORY TRANSIT COMMITTEE. *Report of the . . . to Honorable William O'Dwyer.* City Hall, New York City. September 9, 1946. 56 pp. Append.

NEW YORK (CITY) MAYOR'S COMMITTEE. *Report of the . . . Appointed to Study Labor Relations on the City's Transit System.* City Hall, New York City, April 28, 1943. 38 pp.

NOLTING, ORIN F. "Management Policy on Employee Relations." *Public Management,* January, 1947. pp. 5-10.

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RANEN, ELLIS. "Bargaining Rights in Civil Service." *Survey Midmonthly,* February, 1942. pp. 42-45.

RHYNE, CHARLES S. *Power of Municipalities to Enter into Labor Unions Contracts—A Survey of Law and Experience.* National Institute of Municipal Law Officers, 1941. 78 pp.

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